HAZARDOUS WASTE CONTROL AND ENFORCEMENT ACT, H.R. 2867 (PART 1—SMALL QUANTITY GENERATORS)

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY, ENVIRONMENT, AND SAFETY ISSUES AFFECTING SMALL BUSINESS

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

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CONTENTS

	Page
Hearing held on July 26, 1983	1
Opening statements of:	
Bedell, Hon. Berkley, a Representative in Congress from the State of Iowa	32
Hiler, Hon. John, a Representative in Congress from the State of Indiana.	2
Skelton, Hon. Ike, chairman, Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business	1
Panels consisting of:	
Engel, Ralph; Murray Glauberman; David Carlson; Richard Turney; and Jules Rapp	97
Robinson, Don; Bert Fridlin; and Bonnie Hamm	86
Testimony of:	
Alter, Harvey, manager, Resources and Environmental Quality Department, U.S. Chamber of Commerce; accompanied by Douglas Walker	21
Carlson, David, supervisor of environmental quality, McLaughlin Gormley King Co	100
Contney, John J., executive director, Textile Rental Services Association of America, and chairman, Laundry Cleaning Council; accompanied by Cecil Treadway, president, General Bouchelle, Inc.; and William E. Fisher, administrative assistant, International Fabricare Institute, and member, Laundry Cleaning Council Environmental Task Force	52
Engel, Ralph, president, Chemical Specialties Manufacturers Association	97
Florio, Hon. James J., a Representative in Congress from the State of New Jersey	3
Fridlin, Bert, director, government relations in Georgia, National Federation of Independent Business	90
Glauberman, Murray, president, Malco Products, Inc	98
Hamm, Bonnie, director, government relations in Florida, National Federation of Independent Business	93
Mulholland, John F., Tracrep Corp	128
Rapp, Jules, executive vice president, Adhesive and Sealant Council	120
Robinson, Don, director, government relations in Indiana, National Federation of Independent Business; accompanied by Margo Horner	86
Rose, David, executive vice president, Newtown Corp., and Factory Services, Inc.; accompanied by Arleen Shulman, Federal affairs manager, National Solid Wastes Management Association	34
Thomas, Lee M., Assistant Administrator for Solid Waste and Emergency Response, Environmental Protection Agency; accompanied by John Skinner, Director, Office of Solid Waste, EPA	9
Turney, Richard F., Washington representative, Automotive Service Industry Association, and legislative consultant, Automotive Legislative Council of America; accompanied by Virginia Bliss, consultant	108
Additional material supplied for the hearing record:	
Alter, Harvey, manager, Resources and Environmental Quality Department, U.S. Chamber of Commerce: Prepared statement	23
Automotive Parts and Accessories Association: Prepared statement	131
Carlson, David, supervisor of environmental quality, McLaughlin Gormley King Co.:	
Prepared statement	106
Responses to questions asked during the hearing	126
Contney, John J., executive director, Textile Rental Services Association of America, and chairman, Laundry Cleaning Council: Prepared statement with attachments	58

Page

Additional material supplied for the hearing record—Continued
Engel, Ralph, president, Chemical Specialties Manufacturers Association: Prepared statement 103
Florio, Hon. James J., a Representative in Congress from the State of New Jersey: "Acid Left in Trash Puts Three in Hospital," newspaper article 6
Fridlin, Bert, director, government relations in Georgia, National Federation of Independent Business: Prepared statement 92
Glauberman, Murray, president, Malco Products, Inc.: Prepared statement 103
Hamm, Bonnie, director, government relations in Florida, National Federation of Independent Business: Prepared statement 94
Independent Lubricant Manufacturers Association: Prepared statement 133
Mulholland, John F., Tracrep Corp.: Prepared statement 129
Neighborhood Cleaners Associations: Prepared statement 135
Robinson, Don, director, government relations in Indiana, National Federation of Independent Business: Prepared statement 87
Rose, David, executive vice president, Newtown Corp., and Factory Services, Inc.: Prepared statement with attachments 36
SCA Services, Inc.: Prepared statement 135
Shulman, Arleen, Federal affairs manager, National Solid Wastes Management Association:
Response to number of incidents documented 49
Response to query re: workmen's compensation 52
Society of Independent Gasoline Marketers of America: Prepared statement 132
Thomas, Lee M., Assistant Administrator for Solid Waste and Emergency Response, Environmental Protection Agency:
Prepared statement 13
Responses to questions asked during the hearing 18
Turney, Richard F., Washington representative, Automotive Service Industry Association, and legislative consultant, Automotive Legislative Council of America: Prepared statement 110

HAZARDOUS WASTE CONTROL AND ENFORCEMENT ACT, H.R. 2867 (PART 1—SMALL QUANTITY GENERATORS)

TUESDAY, JULY 26, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY, ENVIRONMENT, AND
SAFETY ISSUES AFFECTING SMALL BUSINESS,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 8:30 a.m., in room 2359–A, Rayburn House Office Building, Hon. Ike Skelton (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN SKELTON

Mr. SKELTON. The hearing will please come to order.

I would ask that, with the time constraints today, particularly with the first witness we have, we are going to be pushing through this as quickly as possible.

The purpose of our hearing today is to provide a forum to small businesses who wish to express their views on H.R. 2867, the Hazardous Waste Control and Enforcement Act, which reauthorizes and amends the Resource Conservation and Recovery Act. While the best method to solve our monumental hazardous waste disposal problems is open to question, there can be no doubt that this legislation, right or wrong, good or bad, will have a significant impact on many small businesses. We have heard about one study, for example, that was conducted by the EPA which estimates that 1.4 million businesses would be classified as small quantity generators for at least the reporting requirements under this proposed legislation.

Therefore, this subcommittee, through the Small Business Committee, requested sequential referral of the Hazardous Waste Control and Enforcement Act to examine the bill in the regular order of the legislative process on behalf of the affected small businesses. Let me make it clear at the outset that our request has been denied and that this subcommittee does not have the jurisdiction to change this legislation outright.

The scope of this hearing then will be to give representative small business industries an opportunity to clarify and draw attention to their concerns about H.R. 2867. I am informed that, in most cases, our small businesses believed that they were never consulted, as they should have been, about these major policy changes that they feel will so dramatically have an impact on them.

Our hearing today will hopefully serve to bring their opinions to the attention of the House when H.R. 2867 is considered in the near future. We are honored that the author of the bill, Hon. James Florio, will be with us to share his views on how and why this legislation is necessary and how the concerns of small businessmen have been addressed.

Finally, I think that the subcommittee must presume the correctness of the Energy and Commerce Committee's recommendation unless and until the contrary is established here today. The collective voice of citizens all over the country and in every walk of life has been loud and clear that Congress must set a national policy on hazardous waste and must take immediate action to protect their health and welfare and the integrity of our environment. It has been my experience that this sentiment is shared with equal fervor by the small business community. Small businesses are not polluters and have indeed been on the leading edge of the necessary technology to solve our hazardous waste problems.

But because of the public mood, the burden will be on small businesses to prove that there is a more intelligent way to tackle the problem while still attaining our primary goal of protecting the public. It is simply not good enough to seek a blanket exemption that will allow some to poison our land and water with casually discarded, dangerous wastes in perpetuity. With this in mind, I hope that the small business community can channel their best efforts here today to offer constructive recommendations to this most serious problem in addition to their concerns about the bill in general.

OPENING STATEMENT OF HON. JOHN HILER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. SKELTON. Mr. Hiler.

Mr. HILER. Thank you, Mr. Chairman,

I am especially pleased to be a part of these hearings, because I can think of few efforts that can at once combine the opportunity to find fair and workable programs to protect our environment with the opportunity to help insure that the effects of the programs do not cause unnecessary hardship on the small business community.

I think all those who will testify today will join me in agreeing that we should do all we reasonably can to control the creation and disposal of hazardous waste. For this reason, the end envisioned in Mr. Florio's bill, the Hazardous Waste Control and Enforcement Act of 1983, is commendable.

My conversations with the small business community reveal, however, that there are several real and relevant concerns that make the means to that end questionable, that there may be a better approach that can at once satisfy the need to protect the environment without so encumbering small enterprises with needless regulation so that they cannot operate profitably.

From my own study of the issue and Mr. Florio's bill, I can understand their concern. Some 1.4 million small businesses will be affected by provisions in the bill that significantly alter their liabilities for the proper disposal of hazardous waste. Close to 130,000

small businesses may have to bear the burden of complying with hazardous waste disposal regulations created for large quantity generators that, for the most part, have the sophistication and capability of dealing with the complications embedded in these regulations.

There are questions about how small businesses can be informed of their responsibilities in such short time, and questions about whether such a large number of businesses can be regulated without relying on selective methods of enforcement and punishment.

Finally, we must wonder if the information needed to formulate and promulgate fair and effective regulations has been collected, analyzed, and organized in a way that will help and not hinder our efforts for safe disposal of waste. When so many small businesses can be affected and when the protection of our environment is at stake, it is not only important, it is essential, that Congress moves with precision and certainty to create sound and effective programs that have the best ends and the best means. To do otherwise would endanger not only the health of the small business community and the health of our economy, but the health of our citizens and environment as well.

I thank the chairman for agreeing to hold this meeting and for agreeing that the small business community deserves the special attention of Congress to help us meet our public policy goals without ruining small businesses in the process. I thank the chairman again, and I look forward to the statement of Mr. Florio.

Mr. SKELTON. If there are no further opening statements, we welcome today Hon. James J. Florio, who is the chairman of the Subcommittee on Commerce, Transportation and Tourism of the House of Representatives. We have been looking forward to your testimony.

I understand you do have a time constraint, so we will proceed.

TESTIMONY OF HON. JAMES J. FLORIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. FLORIO. I will speak as rapidly as I can.

Mr. Chairman and members of the committee, as the committee has indicated, H.R. 2867, the Hazardous Waste Control and Enforcement Act of 1983, reauthorizes and substantially strengthens the Resource Conservation and Recovery Act of 1976, the statute which governs the treatment, storage, transportation, and disposal of hazardous waste.

I think we are all painfully aware that toxic waste threatens the health of 220 million citizens in this Nation. Each year we generate some 250 million tons of hazardous waste, over 2,000 pounds per citizen in this country. Yet, unfortunately, the disposal of much of this waste remains unregulated.

The purpose of section 3 of H.R. 2867, which is the section you are concerned about, is to direct EPA to regulate under subtitle C, hazardous waste from generators who generate a total quantity of hazardous waste between 100 kilograms and 1,000 kilograms a month or in U.S. equivalents, 220 pounds to 1 ton a month. So we are not really talking about small quantities, we are talking about the situation now whereby somebody who can generate a ton a

month of hazardous waste is free from the requirements of the law to dispose of this waste in a safe and appropriate way. EPA, under the proposal, is required to promulgate standards, and they are not the standards applicable to large generators.

Mr. SKELTON. Such as over 1,000.

Mr. FLORIO. Such as over 1,000, such as over 1 ton a month.

What we are doing is directing EPA to not promulgate appropriate standards that are appropriate for small generators, but simply to publish standards.

Mr. SKELTON. May I interrupt you at this time?

Mr. FLORIO. Certainly.

Mr. SKELTON. Is it not true, Mr. Florio, that a number of the States have already done this?

Mr. FLORIO. Twenty States have already done this. So that the argument that you are putting small businesses out of business——

Mr. SKELTON. Are they parallel regulations?

Mr. FLORIO. What we are saying is that the States——

Mr. SKELTON. Are they similar? That is my question.

Mr. FLORIO. The thing is, they haven't got the regulations from the Federal Government. We are directing EPA——

Mr. SKELTON. No; the same 20 States.

Mr. FLORIO. The same 20 States have put into operation regulations.

Mr. SKELTON. But are they similar?

Mr. FLORIO. You can't say are they similar, because there are no EPA standards yet for small generators. We anticipate that EPA is going to be very sensitive to the needs of small generators, and is not going to put full burden of the manifesting system that is currently in operation for large generators.

Mr. SKELTON. Excuse me for interrupting, but I wanted to get that clear.

Mr. FLORIO. That is quite all right.

The requirements that we are advocating EPA put into effect have to be published within 18 months, but in no event are the regulations to become effective before the date 2 years after the enactment of this bill. So we will have 2 years within which EPA would be required to publish appropriate modified regulations for small businesses.

In addition, this section also contains a notice requirement applicable to all offsite shipments of hazardous waste by generators of more than 25 kilograms—that is about 50 pounds—per month, and less than 1,000 kilograms, which is 1 ton, that is to say that for the generators of more than 50 pounds per month, there would be a requirement of notification. "Where are you dumping your materials?"

We have included this provision to correct a current regulatory exclusion from the act which is an administrative exclusion. This was not inherent. The small generator exemption was not contained in the law. This was something that EPA did on its own as an administrative exemption.

Under regulations published on May 19, 1980, EPA excluded from most RCRA requirements generators who do generate less than a ton a month. As a consequence of this exclusion, generators are allowed to dispose of their waste just about any way that they

choose or see fit to do so: Dump it into sanitary landfills, or down sewers. We can have this type of disposal taking place.

I believe that the exclusion is unwarranted, and allows substantial quantities of otherwise hazardous wastes. I take a point to emphasize what we are talking about are materials which are, by definition, defined by EPA as hazardous waste. We are talking about things like dioxin, all types of hazardous waste.

The Office of Technology Assessment has estimated that an amount of up to 10 percent of the 40 million metric tons of hazardous waste that are generated in this country each year are allowed to flow outside of the regulatory system through this small generator exemption, and be disposed of in inappropriate ways.

In May 1980, EPA committed to the lowering of the level of exclusion from 1,000 tons. In other words, in 1980, they said they were going to be doing that. Yet, in fact, they have not done anything, and EPA has said that they might have difficulties in complying with our provisions in this bill. That means that 5 years after they said they would do something, they are expressing their concerns about whether they will have the ability and the authority and the resources to enforce these provisions.

I might also point out that 20 States—and the chairman made the point before—have imposed requirements for generators who produce less than a ton a month of hazardous waste. These States include California, Massachusetts, Illinois, New Hampshire, Missouri, Michigan, Louisiana, New Jersey, South Carolina, and a number of others.

Turning for a moment to the Shelby-Lent amendment to section 3, this is an amendment which will be offered, I understand, in lieu of our provision. I would like to offer some brief observations. A key factor that distinguishes section 3 in the bill from the Shelby-Lent proposal is the requirement that we make for notification. That is to say that generators of more than 50 pounds per month should be required to at least notify the appropriate authorities as to what it is they are doing with their toxic wastes, not in any way imposing limitations on them, but let us know where you are dumping this stuff.

There is an important safety consideration, particularly for those workers who handle or transport solid waste. The Lent-Shelby proposal assumes that there is no safety problem presented by wastes generated in these quantities. I am convinced, however, that there is ample evidence to suggest the contrary. Less than 3 weeks ago, three solid waste landfill workers in Lexington, Ky., were hospitalized from the effects of breathing fumes from a 5-gallon container of hydrochloric acid.

I would make reference and will put into the record, if the committee would permit it, this article regarding the problems associated.

Mr. SKELTON. From what newspaper?

Mr. FLORIO. This is from the Lexington Herald-Leader.

Mr. SKELTON. Thank you.

[The article referred to above follows:]

[From the Lexington (Ky.) Herald-Leader, June 28, 1983]

ACID LEFT IN TRASH PUTS THREE IN HOSPITAL

(By Diane Amann)

A search begins today for the person who left a container of hydrochloric acid for trash pickup yesterday.

Three refuse workers were hospitalized yesterday with rashes, breathing difficulty and watery eyes after they encountered the chemical at the Urban County Government's garbage transfer station at 1555 Old Frankfort Pike.

In satisfactory condition yesterday at Good Samaritan Hospital were Gary Lee Isaacs, 27, of 131 Rogers Road; David Michael Parkerson, 33, of 488 Whispering Hills Drive; and Orville Shanks of 112 Rice Court, Richmond.

After sorting through the trash for several hours, Lexington firefighters discovered several containers of potassium hydroxide and a 5-gallon plastic container of hydrochloric acid, said Maj. Ron Meadows of the fire department's hazardous-material unit.

Although both are toxic substances, Meadows said, "people who are exposed to hydrochloric acid will get the kind of reaction that these men had."

Sanitation trucks from all over Lexington dump their loads into a compactor at the transfer station; the compacted trash is transferred to landfill on larger trucks.

Thus, tracing the source of the container could take time.

"But we're going to try," he said. "There's a regulation against putting any kind of liquids in dumpsters. The landfill does not handle anything that would get into the water table."

The container was already compacted, Meadows said, so firefighters don't know how much acid had been in the container.

The hospitalized refuse workers are employed by Newtown Corp., a trucking company that contracts with the government to transport trash from the transfer station to its landfill in Avon.

Newtown Corp. manager Jack Foster said the incident occurred about 8:15 a.m. while the men were hooking up tractor-trailers in a pit at the station.

"All of a sudden," said Public Works Commissioner Gordon Garner, "their eyes started watering and they had trouble breathing. It put them down pretty quick."

The compacting of pressurized containers occasionally causes explosions or fires at transfer stations, Garner said, but he added, "This is the first I've heard of this kind of thing happening."

Mr. FLORIO. Bottles of potassium hydroxide, another chemical at the site, were listed as being found nearby. Similar incidents involving small quantities of hazardous waste can be documented, and I believe there will be detailed testimony on this by other witnesses here today. I am convinced that the implementation of the notice provision in section 3 of H.R. 2867 would have prevented each of these incidents.

I would like to ask whether any of the opponents of this position, if they could put themselves, for a moment, in the position of a transporter or a solid waste landfill operator, whether they would like to know or not whether the wastes they are handling are toxic? The most basic considerations of safety to the workers involved in these businesses should compel us to retain this provision in the bill.

I would like to mention one last element of the debate that is going on, the question of the paperwork burden.

Under section 3, for each shipment of hazardous waste, the generator would have to fill out only part of the overall manifest system that we are talking about for large generators. This information is limited to four points, and there will be other witnesses who will show you what this looks like: The name and address of the generator; identification of the waste. This can be done by a single number in the code, the hazard classification or a generic de-

scription, so there are three different options as to how you can list what the waste is; the number and type of containers, whether it is a 5-gallon drum or a 55-gallon drum, and the quantity, the total quantity of the waste.

This isn't a burdensome responsibility. As I said, there are 20 different States that have been doing things like this. I can say that one of the States is my State. Contrary to what you have been hearing, it is not putting drycleaners out of business, it is not in any way having any impact on service station operators, so this is really a red herring that some, for whatever motivation, are putting forward.

The fact of the matter is, it is just a matter of commonsense that it is not your mom and pop drycleaner who is generating a ton a month of toxic wastes. So I would suggest to you that those who are opposing this on the grounds that small business is being impacted are really people who are something more than small business.

So I would suggest to you that this is something that you need have no concern about the impact on small business, but you should have concern about contamination for our ground water supplies. There is a very interesting article this morning in the New York Times on ground water contamination that is occurring. I would point out to you that almost 50 percent of the high priority Superfund sites that are on the priority lists are old sanitary landfills, that is, the sanitary landfills that shouldn't be accepting hazardous waste, but under this small generator loophole, are allowed to accept toxic wastes and, as a result, ultimately end up being Superfund sites.

So I would just suggest to you that this committee can serve a very valuable purpose, and I would hope that the committee would see fit in the course of the debate that we will be having on RCRA this week, or perhaps next week, would weigh in in showing and demonstrating this is not any threat to small business.

I thank the gentleman.

Mr. SKELTON. Thank you so much.

Mr. Hiler.

Mr. HILER. Thank you, Mr. Chairman.

I thank you, Mr. Florio, for your detailed analysis of section 3.

I have several questions which I think are typical of some of the questions that the small business community has. I think you said that it could be up to 10 percent of the hazardous waste that is currently generated under the small generator loophole. If that is taken down to 100 kilograms, how much additional hazardous waste then comes under the jurisdiction of the EPA?

Mr. FLORIO. How much additional waste?

Mr. HILER. Yes. In other words, if 90 percent now is regulated under the current RCRA, if we go to the 100-kilogram limit, how much will we effectively have control over?

Mr. FLORIO. I don't think it has been broken down. It is just a mathematical calculation that most will fall into that. You are only talking then about the smallest of generators if we talk about those who generate 220 pounds per month or less.

Mr. HILER. I think that is one of the things that is of concern to the small business community, that there may not be the best in-

formation available on how much waste is being generated in that 25 to 100 kilogram per month area or below 25 kilograms. There may be some concern that here we are putting up to 1.4 million small businesses under the notice requirements that you mentioned, and there may not be that much waste being generated. We are dealing with the significant informational problem of how do you communicate to 1.4 million small businesses the wide range of information that would be necessary to complete that 4-line document.

Mr. FLORIO. Mr. Hiler, let me just point out to you, and I expect your chairman can perhaps be the ultimate authority on this, the problem in Missouri that has caused all of the aggravation with regard to dioxin was prompted by the inappropriate disposal of 48 pounds of dioxin. That has caused this whole problem there.

So to say that the smaller amounts are really not that significant, we have to make an analysis. I think the decision of this Nation is when you are talking about toxic waste, this is something that is deserving of attention. When one weighs the paperwork burden—which is minimal, and the opportunity for some degree of accountability, to know where this is going, there may very well be someone who would come in and criticize the RCRA amendments as being overly modest. To say that you can dump it anywhere you want in small amounts, we want to know where you are dumping, there are some who say we shouldn't be dumping it anywhere you want, even for small amounts like 48 pounds of dioxin.

So I am convinced that we have struck a very good balance, particularly in light of the fact that this exemption is against, it seems to me, the clear intent of the Congress in passing this bill in 1976. It is an administrative exemption for which, in my opinion, is no authority.

Mr. HILER. I don't think anyone in the small business community—or I have not heard any arguments—that in the 100- to 1,000-kilogram level, that they shouldn't come under some type of regulation. In fact, most of the statements I have heard have all said they acknowledge some type of regulation is necessary, and probably would welcome it so that it outlines these things, but if we are talking about the notice requirement down to 25 kilograms——

Mr. FLORIO. Let me just clarify your point. You are concerned then about the 100-kilogram and below notice requirements, that is what is causing you some concern?

Mr. HILER. Yes, down to the 25-kilogram. We have 130,000 businesses that fall into that 100 to 1,000. We have then another, roughly, 1.3 million that fall into the 25-kilogram to 100-kilogram, and I wonder what we are going to get out of it. Yet, the full burden of the law can come down on them for maybe not having completed the forms accurately, or maybe not knowing they were supposed to complete them, I think that is one of the concerns.

You are familiar with the hammer provision that EPA, if they do not promulgate the regulations in the 24 months, then the full RCRA comes over the generators from 100 to 1,000.

I wonder if you might just comment on that, and the concerns of the small business community, that they say "Hey, EPA, in 15 years, hasn't come up with regulations in a congressionally mandated time period, and what's to think they are going to do this in

this particular case, and suddenly we are going to come under the entire burden of the RCRA law."

Mr. FLORIO. I think that is our job. EPA has said since 1980 that it is desirable and it is their intention to publish these modified regulations for small generators. At this point, they have not done that.

I don't want to go into a political harangue, but EPA in the last 2 years has really not done what it is supposed to be doing. The Congress cannot permit continued inaction. The only way we are going to get appropriate action out of EPA—and my committee is prepared to exercise oversight responsibilities—is to get the support of the business community in inducing to do what they should be doing. You can rest assured that the business community is going to be working with us to get EPA to do these things so that they will not be faced with the full implementation of the law. This is an effort to insure their inaction does not continue.

Mr. HILER. Yes, but we are playing a high-stakes game with 130,000 small businesses that, come 22 months from now, may not know that they are going to look forward to coming under full RCRA or whether they are going to be under some modified plan. I just wonder if that is appropriate for the Congress, in trying to exercise some type of hammer over EPA, that we use 130,000 small businesses as the pawn.

Mr. FLORIO. You have already suggested that it is desirable in small business, from your vantage point, that it feels the need to have some regulatory system for its own protection in that area from 1 ton down to 220 pounds.

I would ask, in light of what EPA has done or not done in the last number of years, what your suggestion as to flagrant violation of the responsibility of EPA? I am at a loss as to how to get them to do what they are supposed to be doing.

Mr. HILER. Thank you.

I yield back.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. Thank you, Mr. Chairman.

I just want to thank Congressman Florio, for the illuminating testimony which has clarified many areas for me.

Mr. SKELTON. Thank you very much.

If there are no further questions from counsel, we appreciate your being with us.

Mr. FLORIO. Thank you very much.

Mr. SKELTON. Thank you very much.

The next witness is the representative from the Environmental Protection Agency, Lee M. Thomas. Welcome, Mr. Thomas.

Do you have someone with you, sir?

TESTIMONY OF LEE M. THOMAS, ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY; ACCOMPANIED BY JOHN SKINNER, DIRECTOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY

Mr. THOMAS. Yes, I do.

Mr. SKELTON. Let the record reflect who he is, please.

Mr. THOMAS. This is Dr. John Skinner, who is Director of the Office of Solid Waste, which is the RCRA program office in my division of EPA.

Mr. SKELTON. Please understand we are under a time constraint today.

Mr. THOMAS. Yes, sir.

I appreciate the opportunity to be with the committee today and discuss this most important provision of the RCRA reauthorization bill. During the course of my testimony, I will discuss what we know, as well as what we don't know, about the universe of small quantity generators and what efforts we are undertaking to improve our knowledge in this area. I will also discuss the relevant provisions of H.R. 2867, our efforts to develop a regulatory program, and problems we foresee of implementation and enforcement. I would like to begin my remarks with a brief discussion of the regulatory history of small quantity generators.

On May 19, 1980, as Congressman Florio pointed out, EPA issued the first major regulations under the Resource Conservation and Recovery Act, or RCRA. As part of that package, EPA exempted most wastes generated by firms in quantities of less than 1,000 kilograms per month from regulations under subtitle C of RCRA—the hazardous waste provisions—if they are managed at EPA or State-approved hazardous waste facilities or State-approved solid waste facilities. For acutely hazardous waste, the exemption level is 1 kilogram per month. EPA justified this exclusion by stating that initial implementation should focus on the larger generators who generated between an estimated 95 to 99 percent of all hazardous waste. However, EPA stated at that time that it would initiate rulemaking to lower the exclusion level to 100 kilograms per month in 2 to 5 years.

Our regulatory efforts in 1980 were based on a study completed in 1979, prior to the initial promulgation of small quantity exclusion. This study indicated that 90 percent of all hazardous waste generators qualify for small quantity generator status, although in total, they produce only 1 percent of all hazardous waste generated.

According to the study, reduction of the exemption level from 1,000 kilograms per month to 100 kilograms per month would affect an estimated 130,000 additional generators, a group potentially including gasoline service stations, auto repair shops, drycleaning plants, machinery manufacturers, and electroplaters. Elimination of the exemption for generators of less than 100 kilograms per month would affect approximately 560,000 additional generators, again including many small businesses. The study indicated that regulating wastes generated at levels between 0 and 100 kilograms per month would bring under RCRA control only an additional 0.23 percent of the total amount of hazardous waste generated.

Mr. SKELTON. What is that in numbers?

Mr. THOMAS. In terms of numbers, that is——

Mr. SKELTON. Because the number that was given to us by Mr. Hiler sounds a lot more ominous than the 0.23——

Mr. THOMAS. 4 million tons, I believe.

Mr. SKELTON. How many generators? We are talking about that.

Mr. SKINNER. 400,000.

Mr. SKELTON. I am talking about numbers of generators.

Mr. THOMAS. Numbers of generators?

Mr. SKELTON. Yes.

Mr. THOMAS. Between 0 an 100 kilograms, we estimated at 530,000; no, 560,000.

Mr. SKELTON. Additional generators; is that correct?

Mr. THOMAS. That is right. Between 0 and 100. I believe 400,000 tons is the amount of waste we are talking about.

Mr. SKELTON. Thank you.

Mr. HILER. I wonder if I might just——

Mr. SKELTON. Go right ahead.

Mr. HILER. The current study you have underway, as opposed to the 1979 study, how many businesses have you estimated fall under that 0 to 100 area?

Mr. THOMAS. John.

Mr. SKINNER. We have identified about 1.4 million businesses in standard industrial classification codes, which may cover small quantity generators. We are not estimating that there are 1.4 million small quantity generators. The number of 700,000 to 800,000 is still the ball-park number.

Mr. HILER. So the universe we are looking at would be somewhere between 530,000 and 1.4 million, and probably falling midway in between.

Mr. THOMAS. Somewhere between.

Basically, the figures we are using in this testimony and have been using are still the numbers from the study in 1979.

Mr. HILER. Thank you.

Mr. THOMAS. The 1979 study indicated that by setting the small quantity generator exclusion level at 1,000 kilograms per month, we would greatly limit the number of generators initially subject to subtitle C control while exempting only a very small percentage of the total quantity of hazardous waste generated, allowing us to more narrowly focus initial implementation efforts. However, the study did not provide us with sufficient waste or genarator specific information to establish a tailored program with standards based on the level of hazard presented by various types of waste.

In order to develop data to be used in the development of a tailored regulatory program for small quantity generators, EPA has initiated such a study. One of the major aspects of the study is a survey of approximately 50,000 small quantity generators from 124 different SIC codes, which is a representative sample of the potentially affected population. The purpose of this study is to learn more about the numbers and types of businesses in this group, the amounts and types of wastes generated, and waste management practices currently utilized, as well as the cost of waste management from small quantity generators.

From this survey, we hope to determine what waste management options are available to small quantity generators, including the extent to which small quantity generators are now recycling or reusing their hazardous wastes. We will also be examining the economic impacts of regulating small quantity generators more stringently.

We have been working closely with trade associations representing industries which include small quantity generators in develop-

ing the survey questionnaire and determining which industries to survey. Additionally, we have solicited the trade associations' cooperation in encouraging their members to respond to this survey in the interest of developing the best possible data for a regulatory program.

We are currently pretesting our questionnaire. Every effort has been made to make the questionnaire as short and as simple as possible to reduce the burden on the respondents while still providing us with necessary information. Modification to the questionnaire will be made if the pretest indicates any problem areas.

In addition to the generator survey, the study will include a small survey of solid waste facility owners and operators, that is nonhazardous waste facility owners and operators, in order to find out how they currently handle hazardous waste from small quantity generators and if they have encountered problems associated with hazardous waste received from such generators. We are also in the process of compiling information on State laws and regulations concerning small quantity generators. Through case studies, we will look at various State approaches.

Mr. SKELTON. Just a minute. Because of our time constraints, I wonder if you couldn't summarize this. We do have gentlemen who want to ask you some questions.

Mr. THOMAS. OK.

Mr. SKELTON. As we say in Missouri, give it to us in 25 words or less. Can you do that?

Mr. THOMAS. I will.

Let me make a couple of points as I summarize. First, EPA has the statutory authority to regulate small quantity generators, and we are in the process of doing that.

As we said in 1980 when we promulgated the regulations, we feel that we need to go through a detailed review of exactly what the waste is, who the generators are, and what kind of regulations are most appropriate for them before those regulations are put into effect. That is the process we have proposed. We proposed that this cannot be done in 18 months or 24 months, but proposed it will take as us 30 months of hard work. I realize that is longer than what was proposed in 1980, but I also realize that since I came to EPA, everything else that was proposed in 1980 has taken longer than what was proposed in 1980, simply because it is more work and more difficult to regulate in this area than was anticipated both when Congress passed this bill, as well as when the regulations were first promulgated. That is our best estimate of when we can get those regulations done.

We do feel there should be an interim notice requirement to protect handler and receivers from hazardous waste that is either transported or received by solid waste operators. We do not feel that that notice requirement should go into effect in 90 days, and have proposed that it should not go into effect any earlier than 12 months, to allow us to go through an intensive educational campaign with trade associations for the small businesses which, to this date, have never been regulated under the RCRA program and, in many cases, have never been regulated under the kind of regulations that we would be proposing. So an educational effort, we think, is particularly important.

Additionally, we feel that notice provision should not go lower than 100 kilograms per month. We feel that is an appropriate cutoff level, as per the proposal we have made for our regulatory program with the specific provision that EPA can go lower on a waste-by-waste basis as we do now for acutely hazardous wastes. For instance, we recently proposed listing dioxin as an acutely hazardous waste. As such, it would be regulated down to 1 kilogram per month. We have that authority, and we feel that authority should be used.

Finally, we feel that the notice requirement should be applied only to those wastes that are ignitable, reactive, or corrosive. These are the wastes that we feel are of most concern to the handlers, as well as to the receivers of waste. We feel that any additional waste for which notification may be appropriate should be picked up when the full regulations are promulgated after 30 months.

In conclusion, Mr. Chairman and members of the committee, we feel that we do have a process underway which will insure that we have appropriate regulations for small quantity generators—and I emphasize appropriate—within a timeframe of 30 months. We feel that is the timeframe that Congess should allow us and, through its oversight responsibilities, should insure that we meet that timeframe.

[Mr. Thomas' prepared statement follows:]

PREPARED STATEMENT OF LEE M. THOMAS, ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

Thank you. I am Lee M. Thomas, the Assistant Administrator for Solid Waste and Emergency Response. I appreciate the opportunity to be here today to discuss the issues surrounding generators of small quantities of hazardous waste. During the course of my testimony I will discuss what we know as well as what we don't know about the universe of small quantity generators, and what efforts we are undertaking to improve our knowledge in this area. I will also discuss the relevant provisions of H.R. 2867, or efforts to develop a regulatory program, and problems we foresee in implementation and enforcement. I would like to begin my remarks with a brief discussion of the regulatory history of small quantity generators.

REGULATORY HISTORY OF SMALL QUANTITY GENERATORS

On May 19, 1980, EPA issued the first major regulations under the Resource Conservation and Recovery Act [RCRA]. As part of that package, EPA exempted most wastes generated by firms in quantities of less than 1,000 kilograms per month from regulations under subtitle C of RCRA if they are managed at EPA or State-approved hazardous waste facilities or State-approved solid waste facilities. For acutely hazardous wastes, the exemption level is 1 kilogram per month. EPA justified this exclusion by stating that initial implementation should focus on the larger generators who generated between an estimated 95 to 99 percent of all hazardous waste. However, EPA stated at that time that it would initiate rulemaking to lower the exclusion level to 100 kilograms per month in 2 to 5 years.

INITIAL STUDY OF SMALL VOLUME HAZARDOUS WASTE GENERATORS

Our regulatory efforts in 1980 were based on a study completed in 1979, prior to the initial promulgation of small quantity exclusion. This study indicated that 90 percent of all hazardous waste generators qualify for small quantity generator status, although in total, they produce only one percent of all hazardous waste generated. According to the study, reduction of the exemption level from 1,000 kilograms per month to 100 kilograms per month would affect an estimated 130,000 additional generators, a group potentially including gasoline service stations, auto repair shops, dry cleaning plants, machinery manufacturers, and electroplaters. Elimination of the exemption for generators of less than 100 kilograms per month would affect approximately 560,000 additional generators, again including many

small entities. The study indicated that regulating wastes generated at levels between 0 and 100 kilograms per month would bring under RCRA control only an additional 0.23 percent of the total amount of hazardous waste generated.

The 1979 study indicated that by setting the small quantity generator exclusion level at 1,000 kilograms per month we would greatly limit the number of generators initially subject to subtitle C control while exempting only a very small percentage of the total quantity of hazardous waste generated, allowing us to more narrowly focus initial implementation efforts. However, the study did not provide us with sufficient waste- or generator-specific information to establish a tailored program with standards based on the level of hazard presented by various types of wastes.

THE NEW SMALL QUANTITY GENERATOR STUDY

In order to develop data to be used in the development of a tailored regulatory program for small quantity generators, EPA has initiated a new study. One of the major aspects of the study is a survey of approximately 50,000 small quantity generators from 124 different SIC codes, which is a representative sample of the potentially affected population. The purpose of this study is to learn more about the numbers and types of businesses in this group, the amounts and types of waste generated, and waste management practices currently utilized, and the cost of waste management for small quantity generators. From this survey, we hope to determine what waste management options are available to small quantity generators including the extent to which small quantity generators are now recycling or reusing their hazardous wastes. We will also be examining the economic impacts of regulating small quantity generators more stringently.

We have been working closely with trade associations representing industries which include small quantity generators in developing the survey questionnaire and determining which industries to survey. Additionally, we have solicited the trade associations' cooperation in encouraging their members to respond to this survey in the interest of developing the best possible data for a regulatory program.

We are currently pretesting our questionnaire. Every effort has been made to make the questionnaire as short and simple as possible to reduce the burden on the respondents while still providing us with necessary information. Modifications to the questionnaire will be made if the pretest indicates any problem areas.

In addition to the generator survey, the study will include a small survey of solid (nonhazardous) waste facility owners and operators in order to find out how they handle hazardous waste from small quantity generators and if they have encountered problems associated with hazardous waste received from such generators. We are also in the process of compiling information on State laws and regulations concerning small quantity generators. Through case studies, we will look at various State approaches to implementing and enforcing their small quantity generator programs where they have lower exclusion levels than the Federal program.

The information gathered through the study will serve as the basis for developing a regulatory program as well as completing the required statutory analysis under the Regulatory Flexibility Act and the Paperwork Reduction Act. EPA already has sufficient statutory authority under RCRA to regulate small quantity generators.

H.R. 2867

I would not like to comment on the small quantity generator amendment contained in H.R. 2867. As I have stressed in my testimony, our existing data on small quantity generators in limited. We believe that our new study is a crucial requisite to the development of a sound and well reasoned regulatory program. H.R. 2867 establishes an 18-month deadline for promulgation of a small quantity generator regulatory program. EPA cannot complete its study, analyze the data, develop a proposed rule, take and consider public comment, and promulgate a final rule in this time period. Rather, we believe that a minimum deadline of 30 months after enactment for promulgation of regulations is achievable if we aggressively continue our work in this area.

Pursuant to the amendment, if EPA fails to meet the deadline for promulgation of the small quantity generator standards, all of the subtitle C regulations become applicable to these generators and their wastes by operation of law. Moreover, this provision is particularly burdensome given the unreasonableness of the deadline for issuing regulations. It is unfair to small quantity generators to automatically impose a complex set of requirements on them if EPA misses a statutory deadline.

Another area I would like to address is the provision requiring that beginning 90 days after enactment, a notice accompanying all shipments of hazardous waste from generators producing waste in quantities from 25 to 1,000 kilograms per month. We

agree with the goal of informing waste handlers such as transporters and disposal site personnel about of the hazardous nature of the wastes they are handling. However, we oppose the application of this requirement to generators of between 25 and 100 kilograms per month because we feel that it will be impossible to educate the hundreds of thousands of affected generators as to their reporting responsibilities.

We believe that the notice provision should apply to generators of between 100 and 1,000 kilograms of hazardous waste per month, leaving EPA the discretion to lower the level below 100 kilograms for certain wastes if necessary for the protection of human health and the environment. We also believe that the notice provision should apply only to hazardous wastes which are ignitable, corrosive, or reactive, since these are the classes of wastes which may present risks to transporters or disposal site personnel if improperly handled. Lastly, we believe that the notice requirement should not take effect until 12 months after enactment. This amount of time is necessary for EPA to inform the affected community of their statutory responsibilities to foster voluntary compliance by small quantity generators.

The most important aspect of implementing this provision is fostering voluntary compliance through a broad educational campaign, working with the trade associations to alert the affected community of their duties and responsibilities. We believe that many of the affected generators will likely be small businesses which in the past have had little familiarity with the RCRA regulations. These businesses may not even be aware that they are generators of hazardous waste, much less be able to identify their wastes sufficiently for purposes of completing the notice.

We will depend heavily on education to obtain compliance with this requirement. We envision taking enforcement actions when we receive reports of noncompliance from waste handlers. To conduct occasional inspections of even a small percentage of small quantity generators will be very resource intensive for EPA and the States given the enormous size of the regulated community. Some States may, of course, have the capability to undertake a more aggressive enforcement program.

CONCLUSION

In conclusion, I would like to reiterate that we believe that some added regulation of small quantity generators is necessary for protection of human health and the environment. Adequate time and flexibility must be provided to gather information and develop a carefully thought out program designed to assure protection of human health and the environment while minimizing the economic and administrative burden on small businesses.

Thank you very much for the opportunity to share these thoughts. I will be happy to respond to any questions you might have.

Mr. SKELTON. Mr. Hiler.

Mr. HILER. Thank you, Mr. Chairman.

Let me just ask a direct question, and I think you have already answered it directly: You could not meet the provisions that are currently envisioned under section 3 of the bill relating to having the regulations promulgated in the 24-month time period?

Mr. THOMAS. No.

Mr. HILER. It would be your understanding that, if you were not able to meet those, 130,000 small businesses would come under the full provisions of RCRA?

Mr. THOMAS. Yes.

Mr. HILER. That would not be an appropriate set of regulations for those small generators?

Mr. THOMAS. No, we don't think so, not at this point in time. We think specifically that regulations should be tailored to specific wastes and specific generators.

Mr. HILER. The provison—to ask a clarifying question here—you said that an acutely hazardous waste——

Mr. THOMAS. Such as dioxin.

Mr. HILER [continuing]. Such as dioxin can be regulated down to 1 kilogram per month.

Mr. THOMAS. That is correct.

Mr. HILER. Which would be 2.2 pounds.

Mr. THOMAS. That is correct.

Mr. HILER. So what we are saying, then, is that the idea that, somehow, if we don't go to 25 kilograms for notice requirement, that is to say there are all sorts of hazardous wastes that are going to get into the system wouldn't necessarily be the case because you can, under existing authority, go down to 1 kilogram per month.

Mr. THOMAS. Yes, for what we categorize as an acutely hazardous waste. I don't mean to imply that a vast amount of small quantity generator waste that we do list as hazardous is now going into the system. But the scheme that I have laid out is that we need to go through a full survey, regulatory proposal, comment period, and development of final regulations, before we in fact regulate the full amount of hazardous waste.

On an interim basis, I am suggesting a notice requirement that would, in fact, be in place for the 2 years between when that would be promulgated and when the full regulations would take effect. I, like everyone in Congress when the bill was first passed, would hope and understand that the intent eventually is to regulate the full amount of hazardous waste that is generated at the appropriate level of regulation. I think we are not at that point where we are ready to say what is the appropriate level of regulation for these levels of waste. It is an incremental process we are going through.

Mr. HILER. I have one final question, Mr. Chairman.

Does EPA have a position on the Shelby-Lent amendment?

Mr. THOMAS. It is heading more in the direction that we have proposed, yes. We support the Shelby-Lent amendment.

Mr. HILER. I thank you, Mr. Chairman.

Mr. SKELTON. Thank you.

Mr. Torres.

Mr. TORRES. Thank you, Mr. Chairman.

You mentioned in your statement that you believe that a minimum deadline of 30 months is necessary to promulgate regulations. Can you explain to me why it takes 30 months? That is a rather lengthy time when, in fact—as I see an outline here—it is a rather simple procedure?

Mr. THOMAS. Mr. Torres, I am going to let Dr. Skinner run through the details of that survey.

But let me just make one overall comment. I have been at EPA now for 5 months. One of the things I have tried to do since I began managing the hazardous waste programs is to review with staff all the efforts we have underway, as far as regulation is concerned, and come up with what I think is the most realistic timeframe, given the process that we go through for promulgating regulations. I did that with this as I did with, for instance other provisions of the bill relating to land disposal. I feel that that is the most realistic timeframe in which we can come out and have regulations in place.

Let me let Dr. Skinner run through the process that we have underway, why it takes that length of time.

Mr. SKINNER. First, we want to complete the survey of these small quantity generators that we have underway. That will take us into next year.

In addition to that, we want to review all of the State programs that current regulate small quantity generators, see how well they work, see if there are any provisions that we should consider there.

Following that, we have to design the regulatory proposal for these small quantity generators. We estimate that we could make that proposal, we could propose that in the Federal Register, in early 1985. Since that will potentially regulate several hundred thousand businesses, we expect to get a significant amount of public comment on that. So going from the proposed regulation stage to the final regulation stage, considering all the public comments, we estimate it will take us approximately another year. So we are talking about a final regulation approximately 30 months from enactment.

Mr. THOMAS. So we would complete the survey by March of next year, we would propose the regulations by March of the next year, and we would implement the regulations by March of the next year.

Mr. TORRES. Is it simply not a question of manpower or people power, so to speak?

Mr. THOMAS. In this case, I don't think it is a question of manpower and resources. I think it is a question of one insuring that we do a complete survey, and we think that the one that is underway is a good one and will give us the results. Two, it is a matter of development of the regulations, proposal of those, and sufficient time for public comment.

We are anticipating a large number of comments. We anticipate public meetings, as far as those comments are concerned, and explanations of the regulations. We anticipate needing sufficient time for really digesting those comments and putting them in the final regulation.

I think it is more a matter of the length of time to complete that process, as opposed to the amount of resource devoted to that process.

Mr. TORRES. Thank you.

I yield back my time, Mr. Chairman.

Mr. SKELTON. Let me ask you a question. You are aware of the fact that the some 20 States have regulations for the lower amounts of wastes; is that not correct?

Mr. THOMAS. That is correct.

Mr. SKELTON. How much time did it take each State to promulgate these regulations?

Mr. THOMAS. One of the things we are doing as a part of our survey is surveying the States to determine exactly what their regulations are and get at those kinds of——

Mr. SKELTON. Just answer my question, sir.

Mr. THOMAS. We don't know.

Mr. SKELTON. You don't know.

Do you have enough manpower to call the folks and see if it takes 30 months for them to have done this?

Mr. THOMAS. We re in the process of surveying those States now, Mr. Chairman.

Mr. SKELTON. That is important information for us to make a very crucial decision. I wish you had come prepared to answer that. I will ask you that question, and ask you to supply for the record

for each of the 20 States and how long it took them to promulgate their regulations. If it is 30 months, we ought to know it; if it is 10 months, we ought to know it. They evidently went through the same process that you will be going through.

Actually, they have done a lot of groundwork for you. This is not new territory; is that correct?

Mr. THOMAS. We agree. That is why we think it is so important that we survey those States, develop the experience that the States have had. For instance, we also know that there are a number of States that have the regulations but don't necessarily have a strong enforcement program.

Mr. SKELTON. All right. Thank you, sir.

Do you have any further comments.

Mr. THOMAS. No, sir.

Mr. SKELTON. We appreciate your being with us.

[The information referred to above follows:]

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., August 12, 1983.

Hon. IKE SKELTON,
Chairman, Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business, Committee on Small Business, House of Representatives, Washington, D.C.

DEAR MR. SKELTON: This letter is a follow-up to testimony I presented to your Subcommittee on July 26, 1983 during hearings on the small quantity generator provision in H.R. 2867. During questions following my testimony, you requested that I submit information for the record concerning the length of time it has taken States to develop their small quantity generator regulatory programs.

In response to your request, we have prepared the enclosed report for inclusion in the record. The information in the report was obtained from States which have lower small quantity generator exclusion levels than the Federal program.

I would again like to express my thanks for the opportunity to testify before your subcommittee on the very important issues relating to small quantity generators.

Sincerely yours,

LEE H. THOMAS,
Assistant Administrator.

Enclosure.

REPORT TO SUBCOMMITTEE ON ENERGY, ENVIRONMENT AND SAFETY ISSUES AFFECTING SMALL BUSINESS, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES ON DEVELOPMENT OF STATE SMALL QUANTITY GENERATOR REGULATIONS [1]

INTRODUCTION

This report summarizes the experiences of ten States in developing a regulatory program for small quantity generators. The focus of the report is the length of time it has taken States to promulgate their small quantity generator regulations. This time period varies greatly among the various States surveyed depending on (1) the complexity of their small quantity generator program and (2) the procedures associated with rulemaking which must be followed in individual States.

Several States with lower small quantity generator exclusions based their exclusion level on administrative considerations, similar to the basis for EPA's current exclusion level. In such States the length of rulemaking was generally shorter than in the few States with tailored programs based on the degree of hazard of specific wastes.

[1] The information in this report was obtained from State officials in the following States: Alaska, Illinois, Maine, Massachusetts, Michigan, Missouri, New Jersey, New York, Vermont, and Washington. These States have lower small quantity generator exclusion levels than the Federal program. In each of these States, that exclusion level was set by regulation rather than by statute. Additional information was obtained from a draft report prepared for EPA by the Association of State and Territorial Solid Waste Management Officials on State small quantity generator programs.

The second major factor in determining the length of the rulemaking process was the differing procedures (e.g., State administrative procedure acts) associated with promulgation of regulations. These procedures include in some States: public comment, public hearings, economic impact analysis, administrative commission review and approval, and legislative review and approval. In some States, adoption of regulations appears to be quite informal. However, other States indicated that procedures associated with the rulemaking are quite burdensome and significantly delay the rulemaking process. Therefore, many of the differences among the States in time for rule development can be attributed to the varying State rulemaking procedures.

In addition, many States promulgated their small quantity generator rules as part of their overall hazardous waste regulatory program. In these States, State personnel generally had difficulty segregating time spent on small quantity generator regulations from time spent on developing the remainder of their regulations. In other cases, no records exist of the rulemaking process and therefore, "best estimates" were given.

STATE-BY-STATE ANALYSIS

The following is a summary of the experiences of the States contacted.

ALASKA

Alaska currently has a proposed small quantity generator rule, which has been under development since January 1982. They expect to promulgate a final rule in January 1984.

Alaska's proposed rule provides for a 400 lb. per month exclusion level for most waste with a lower level for highly toxic wastes. Their proposed rule was developed based primarily on a review of other States' small quantity generator rules.

ILLINOIS

Illinois proposed their hazardous waste regulations in 1976. The small quantity generator rule was proposed as a piece of this regulatory package. State personnel estimated that the rules were under development for approximately 6 months prior to their proposal in 1976. The rules were promulgated as final in 1979, thus the total time for development was 3½ years. State personnel attributed this time period to procedural requirements associated with rule promulgation such as economic impact analysies and public hearings.

MAINE

Maine began developing their hazardous waste regulations in February 1979. In November 1980 they issued final hazardous waste regulations and adopted, as part of those regulations, a 1,000 kg per month exclusion level for small quantity generators. On March 23, 1983, Maine amended their regulations to lower the small quantity generator exclusive level to 200 kg per month. State personnel were not able to identify the length of time required to develop the lower exclusion level.

MASSACHUSETTS

Promulgation of hazardous waste regulations took approximately 2 years in Massachusetts. It was estimated that the small quantity generator rule was "negotiated" for 6 months.

MICHIGAN

Development of hazardous waste management in the State of Michigan began in September 1979. Michigan based their small quantity generator rule on EPA's original proposed exclusion level of 100 kg per month. Final hazardous waste regulations, including the small quantity generator provision, were adopted in March 1981.

MISSOURI

Missouri set their small quantity generator exclusion level at 100 kg per month in January 1980. Development of generator regulations began in early 1978 and regulations were proposed in April 1979. According to State personnel, extensive testimony was given on the small quantity generator exclusion at public hearings on the regulations.

NEW JERSEY

Final New Jersey hazardous waste regulations were promulgated in August and October 1981. The regulations were proposed approximately one year earlier. New Jersey originally proposed no small quantity generator exclusion but finally adopted a 100 kg per month exclusion level. Adoption of this level was an administrative decision based on the availability of State resources to implement and enforce the regulations.

NEW YORK

New York began development of their hazardous waste regulations in about May 1980 and proposed them in May 1981. The rules become final in March 1982.

VERMONT

Vermont promulgated their hazardous waste regulations in July 1980. The small quantity generator rule was included in this promulgation. State personnel estimated that the rules were informally proposed for comment in early 1980 but had no records indicating development time prior to proposal. Vermont based their SQG rule on the 1978 Federal proposal.

WASHINGTON

The State of Washington began development of hazardous waste regulations in 1977. Regulations were promulgated in January 1978, however, the State began amending the rules in June 1980. The final small quantity generator rule was promulgated in 1981. State personnel indicated that it takes well over a year from proposal to final rulemaking because of the time needed for public meetings and hearings.

CONCLUSION

Our survey indicates that the time required to develop and promulgate a rule varies considerably from State to State based on the complexity of the rule and the procedural requirements associated with rulemaking. For these same reasons, the time required for the U.S. EPA to develop a new small quantity generator regulatory program will vary considerably from the time required by States.

Most States appear to have based their lower small quantity generator exclusion level on either the 1978 Federal proposal or on administrative (resource) considerations (i.e., on the same types of factors considered by EPA in promulgating the 1,000 kg per month exclusion level in May 1980). States do not appear to have undertaken the in-depth analysis of the issue that EPA is now involved in through our study. However, we believe this study is crucial to developing a sound regulatory program at the Federal level which will serve as a model for the States. In addition, H.R. 2867 does not simply direct EPA to set a different lower exclusion level as most States have done, but rather requires that EPA establish a special regulatory program for small generators, different from that applicable to larger generators.

Another basis for distinguishing the Federal rulemaking process from the State process is the many statutorily required procedures associated with the Federal process. Examples are the requirements of the Administrative Procedures Act (public notice and comment), the Paperwork Reduction Act (paperwork burden analysis and OMB clearance), the Regulatory Flexibility Act (analysis of impact on small entities), and Executive Order 12291 (Regulatory Impact Analysis and OMB review). In addition, because of the level of judicial scrutiny afforded regulations in Federal court, all regulations must be carefully supported by an Agency record. Thus, in order to withstand judicial review, we must develop adequate background data upon which to base the regulations.

Mr. SKELTON. The U.S. Chamber of Commerce, Dr. Harvey Alter and Mr. Douglas Walker.

So we can get our time down, we would suggest 10 minutes for your presentation, and 10 minutes for the questioning. That way, we can cover all of the subject.

TESTIMONY OF HARVEY ALTER, MANAGER, RESOURCES AND ENVIRONMENTAL QUALITY DEPARTMENT, U.S. CHAMBER OF COMMERCE; ACCOMPANIED BY DOUGLAS WALKER

Mr. ALTER. Thank you very much, Mr. Chairman. We appreciate being here. I will try to present a statement in even less than 10 minutes.

I am Harvey Alter, manager of the resources and environmental quality department of the U.S. Chamber. With me is Mr. Walker, one of my staff and issue specialist for RCRA.

It is perhaps of interest to you that I am a chemist by training. For many years I have been active in the solid waste management field, and have published extensively on my research in that field. The chamber is also pleased to be here. I don't have to tell this subcommittee that about 85 percent of our more than 213,000 members are small businesses.

I listened to the testimony this morning, and I have listened to this debate for many, many months, and I think the wrong issue is being debated. The issues are environmental quality and protection for the country and at what cost. I do not mean the cost in terms of dollars, because that is a cost that is just passed on to the customer. It is the cost in terms of what I term the "stomach ache factor." Those of you have been in business and have had to make decisions know what a stomach ache factor is. It is yet another decision, yet another piece of work, another hassle—am I doing the right thing—and, most important to the small businessman, does this divert his attention and his energies away from the primary purpose of the business.

I think I can show you that the environmental protection of the country can be maintained under the so-called Shelby-Lent proposal, and that the differences between that proposal, and the current section 3 of RCRA, are not that onerous in terms of protecting the environment.

First, it is important to say that, as we examine all of these various numbers and estimates of hazardous waste generation, and listen to Mr. Thomas and others, I look at them and conclude there is no great precision in them.

Mr. SKELTON. No great what?

Mr. ALTER. No great precision. Nobody has a clear crystal ball to estimate how much hazardous waste is generated by small businesses. This is a typical factor of solid waste management. We tend to overanalyze based on a paucity of data.

However, all of the numbers agree to the order of magnitude. Any way you view the numbers, we are talking about a very small quantity of waste and a very large number of people to regulate.

It was presented this morning by Mr. Florio as if we did not follow section 3 of his proposal, then hazardous waste would not be managed. This is simply not true. Solid waste management begins with the first step, or the container. It begins at the point of the generator; it continues through the gate of the disposal facility.

This is true even with municipal waste. I have worked on municipal waste landfills, and I have worked in municipal waste processing plants. At any point, if you are not careful, and do not look at the waste you are getting in, and if you do not talk to the people

who are your customers when you collect it, you can be hurt. It is not a question of being hurt by hydrochloric acid or potassium hydroxide, as was mentioned. It is a queston of being hurt by almost anything because, in this field, we are talking about the handling of the discards of society. People must be trained and they must be given proper safety equipment. Believe it or not, refuse is examined in any properly operated facility.

Properly operated facility is a key aspect of this discussion. There are some who would argue for the current section 3 as if it was going to correct the abuses of the past. It will not. It doesn't address the past. We have a terrible situation with landfills, and again I have been on some of them, because they were sited for the wrong reasons and at the wrong place.

Now, under RCRA, I would hope that we have appropriate solid waste management tools. Some of the ways and the dictates of managing solid waste were put forth by the Army in their sanitary landfill guidelines 40-plus years ago. It is just a question of will we follow them and will local governments be willing to pay for them. If so, we could have the appropriate management.

When we talk of hazardous waste, I suggest we must keep in mind the definition. All solid waste is classified by law as either hazardous or nonhazardous. I submit this is like saying that all people are either good or bad. Always, does not fit into these categories. Maybe someday EPA, business, and industry and the Congress can find a better definition, and we can start to talk about degree of hazard.

We already discuss ultrahazardous wastes and regulate those separately, but under the mixture rule of hazardous waste definitions, and some other of the definitions, we ae talking about materials that do not pose necessarily a very great threat to society. Yet, there are some in the country who would see us ratchet down and heavily regulate all wastes. Why?

As you noticed, as proposals are made to ratchet down to make the regulations more and more difficult to meet, there is no mention of consequent environmental benefit. Who are we kidding? If there is no environmental benefit, then what is the sense of having people jump through hoops.

Example: It keeps being raised that 20 States have a regulation different from the Federal Government. We took the initiative, working with one of our members, to survey some of those States, talk to our members there, and talk to the State regulatory agencies. We asked how they manage small generators of hazardous waste. What we found was utter confusion. In my written statement, in the appendix, we give you the results of that survey.

What we find is those programs, I am sorry to say, are not well managed, mostly because the small generator has not been well informed and several of those States have special exceptions. What is a special exception? We won't treat you differently; you can have a 1,000-kilogram or a 100-kilogram a month exception. Why? Because they have recognized; it is my supposition, that this is a difficult, if not impossible, program to manage. The management starts, as I said, before the waste reaches the gate of the disposal facility. Regulations to not substitute for care.

Finally, I would like to comment on the proposal of 30 months and education. Without education, gentlemen, we are going to have harassment of small business, we are going to have too many to regulate, to many to enforce. We will have a built-in program for failure, and I can well imagine the headlines as we find the people who have not been properly cited for abuses. The result is that we are not going to protect the environment, we are just going to make headlines. Then somebody is going to come to Congress and ask for more money to do this or that, and it is not, again, going to protect the environment.

In closing, I would also like to point out that the same uncertainties in the small generator amendment, the same difficulties for small business, apply as well to section 5 regarding landfill disposal. I hope that your subcommittee will have the opportunity to examine this section in H.R. 2867, because you will find that sections as well, is not very good for small business. In fact, it may not be good for any business. It calls for the banning of landfill waste, again on a ratchet-down and unthought-out basis.

Thank you very much.

[Mr. Alter's prepared statement follows:]

PREPARED STATEMENT OF HARVEY ALTER, MANAGER, RESOURCES AND ENVIRONMENTAL QUALITY DEPARTMENT, U.S. CHAMBER OF COMMERCE

I am Harvey Alter, Manager of the Resources and Environmental Quality Department of the Chamber of Commerce of the United States.

The chamber applauds the interest of this subcommittee and the Congress in their efforts to improve the nation's hazardous waste management program. I appreciate this opportunity to express my concerns of small businesses, most of the chamber's 213,000 members, regarding the legislative changes in the Resource Conservation and Recovery Act [RCRA] as proposed in H.R. 2867, the "Hazardous Waste Control and Environment Act of 1983."

The chamber strongly supports the sound environmental management of all wastes. At the same time, the chamber advocates the prudent use of resources and the application of reasonable, practical, and balanced controls to assure environmental quality without excessive paperwork and expense.

Environmental control and regulation must have a consequent and identifiable environmental quality improvement. If not, the control and regulation are excessive. This is a subject of our appearance as regards the obligations of small businesses. They are prepared to do their fair share to achieve proper hazardous waste controls and to assure human safety and health. In return, they seek a balance among those obligations, the regulatory requirements that may be imposed, and the discernible environmental quality improvements resulting.

Our testimony today is directed at the problem of the so-called "small generators," businesses that produce 1,000 kg (approximately 2,200 pounds) per month of hazardous wastes—or less. We recognize that some of the small generators may not be small businesses but the concerns are the same when the potential regulatory requirements are viewed in light of the potential environmental benefits. Also, we wish to comment on the effect on small businesses of the ban on landfilling of certain wastes called for in H.R. 2867.

The U.S. chamber opposes the small quantity generator proposal in section 3 of H.R. 2867. This provision, if enacted without amendment, would set unrealistic deadlines for Environmental Protection Agency [EPA] to promulgate new hazardous waste regulations; create a multi-tier regulatory program of notification and regulaton of hazardous waste that is at best confusing for small business; and automatically impose existing RCRA regulations—those designed for larger waste generators—on hundreds of thousands of small generators if EPA fails to meet the deadlines in the bill. The benchmark or "trigger" for these actions, 25 kg per month, is unnecessarily small. Our reasons for these objections are tied to the absence of a clear resulting improvement in environmental quality.

We believe a rational control program for small amounts of hazardous waste is possible and support an alternative approach.

We strongly support the bipartisan small generator compromise amendment to Section 3 of H.R. 2867 sponsored by Representative Shelby (D.-Ala.) and Representative Lent (R.-N.Y.), to be offered on the House floor. We hope to show you by comparison that the Shelby/Lent amendment corrects the flaws in H.R. 2867 and creates a workable regulatory system for small generators while safeguarding the environment.

We oppose section 5 of H.R. 2867 banning the landfilling of certain wastes by a time certain. This section will create a myriad of problems and expenses for small businesses without commensurate environmental quality improvements. This section is unnecessary because landfilling is an acceptable disposal method, if properly practiced.

We ask this subcommittee recommend to the Congress passage of the bipartisan amendment to be offered by Congressmen Shelby and Lent and rejection to section 5 of H.R. 2867. Both actions are needed by small businesses and neither will place public health or environmental quality at risk.

BACKGROUND

The Environmental Protection Agency [EPA] has the authority to regulate all hazardous waste. In current regulations, it has chosen to exclude small generators at the 1,000 kg per month benchmark. This is perhaps an arbitrary figure. However, it was chosen in an attempt to capture a maximum amount of hazardous waste while regulating a minimum number of generators. As will be pointed out later, all estimates, however presently flawed, agree on the order of magnitude of the amount of waste missed by regulations by establishing 1,000 kg per month benchmark. The amount is small, and to lower the benchmark to include many, many small generators would capture little more hazardous waste, hence offer little discernible improvement in environmental quality.

Importantly, "ultra-hazardous" waste is not missed by any system or benchmark. EPA now has the authority to promulgate special regulations for such waste and does so. For example, certain hazardous wastes are regulated when generated at 1 kg per month and we endorse such regulations for appropriate materials that present special threats to public health and the environment.

This statement will address the important question of at what benchmark, or decision point, is most of the waste captured into a proper, yet rational system.

The balance between proper, in the sense of environmental protection, and rational, in the sense of society not spending too much to control too little of the waste, was debated extensively in the 97th Congress. The debate covered how much regulation should be required of small businesses to achieve this elusive balance.

Environmental laws, including the Resource Conservation and Recovery Act [RCRA], are both legally and technically complex. The resulting regulations are often baffling, generally beyond the ken of small business firms that cannot afford to hire appropriate staffs or engage consultants and laboratories. Recognizing this introduces yet another element toward achieving the balance: a regulatory system must not be so complex that it cannot, and therefore will not, be complied with.

NUMBER OF AFFECTED BUSINESSES

A survey of businesses by SIC classifications was recently completed by an EPA contractor in order to identify which small businesses, and how many, might generate hazardous waste.[1] The survey estimates that more than 1.4 million firms are likely to generate small quantities of such waste. From this universe, EPA plans to poll a remarkable 50,000 firms to discover what types of hazardous waste they generate and the current state of their waste management capabilities. How many of these establishments fall below or above any particular benchmark is impossible to determine at this time. However, a list of the different types of industries from the initial survey may be helpful in assessing the scope of the regulatory program necessary under H.R. 2867.

[Estimated number of establishments]

SIC classification:	*Number*
Agriculture, forestry, and fishing	21,988
Construction	194,248
Manufacturing	327,432
Transportation and public utilities	141,916

[1] Small Quantity Generators Sample Design, Final Report, Contract No. 68-01-6596, June 15, 1983, Abt Associates, Inc., to the U.S. Environmental Protection Agency.

Wholesale trade	34,954
Retail trade	263,783
Services	442,801

ISSUE: STATE OF MINIMUS LEVELS

Currently, 29 States have adopted the Federal small generator exemption as promulgated by EPA in May 1980. Each of the remaining 21 states has adopted a lower regulatory exemption. Ten States established a 100 kg per month benchmark; five States do not provide a small generator exemption on a case-by-case basis; and six State hazardous waste programs vary their small generator benchmarks between 20 and 900 kg per month.

Both EPA and the Association of State Solid Waste Management Officials have testified before Congress in support of the 100 kg limit as a reasonable approach at this time. It makes sense to build on the existing state systems and complement their activities rather than confuse efforts by setting the Federal notification benchmark at a different level.

The fact that some 21 States have a lower benchmark than the Federal Government for regulating small generators, has been used as an argument by some in the Congress to lower the Federal requirement. This reasoning is fallacious.

The U.S. Chamber polled a number of small businesses and state agencies in many of these 21 States to inquire as to their knowledge of, and practice of, the small generator regulations. We presented the findings for the record to the Commerce, Transportation, and Tourism Subcommittee of the Energy and Commerce Committee of the House of Representatives, and in testimony to the Environmental Pollution Subcommittee of the Environment and Public Works Committee of the Senate. These results are appended to this statement. The overall conclusion was that the small generator regulations are not enforced and that the small generators are not informed that there are such regulations. Hence, the argument that a Federal regulation of de minimus level matching these states is inappropriate.

H.R. 2867: AN UNWORKABLE PROGRAM FOR SMALL BUSINESS

While the small business community is not opposed to the extension of regulations to "small generators," section 3 of H.R. 2867, as reported by the Energy and Commerce Committee, would place regulations on hundreds of thousands of small businesses for whom such regulations can be confusing, burdensome, and unnecessary for environmental protection.

An issue of great concern for small generators is the provision in H.R. 2867 which holds small business hostage to EPA's ability to meet regulatory deadlines. As currently written, H.R. 2867 allows EPA 18 months after enactment to regulate all businesses that generate between 100 kg and 1,000 kg of hazardous waste per month. However, if EPA fails to meet this 18-month deadline, all existing RCRA regulations which are designed for larger waste generators (above 1,000 kg per month), and took more than 6 years to promulgate, would automatically apply to any business over the 100 kg per month benchmark.

EPA has yet to meet a congressional deadline, hence, there is a very clear possibility that the hundreds of thousands of small businesses, such as gas stations, dry cleaners, retail stores and small manufacturers, will have to comply with the same regulations designed for larger, better staffed and generally more sophisticated waste generators.

We must question whether it is proper for the Congress to hold small business hostage against EPA's inability to meet an unreasonable deadline on such complex and far reaching regulations.

Another significant burden for small business is the level at which small generators must identify and provide written notice to their waste hauler when very small quantities of waste deemed to be hazardous is transported offsite. Section 3 of H.R. 2867 requires, within 90 days after enactment, any establishment generating more than 25 kg (approximately 55 pounds) of hazardous waste per month to identify themselves and provide a written list of their hazardous wastes to the collector each time such waste is transported offsite. If enacted, this provision could affect any business that produces about two pounds of hazardous waste per day.

For example, retail merchants have estimated that an average consumer product spill in a store generates between 6 and 8 pounds of cleanup waste. If the product spill is of a hazardous material—such as certain paints, cleaning solvents or pesticides—there is potential for Federal involvement. Likewise, a small printshop could easily generate 25 kg of waste inks, solvents, and cleaning rags during a 30-day period, thereby crossing the notification threshold.

Proponents of the 25 kg notice believe that such a national requirement will result in improved environmental quality. However, when such a proposal is thought out, it is possible that the opposite will occur.

THE AMOUNT OF WASTE AT RISK

While specific estimates vary, all reports agree that small generators under the 1,000 kg per month benchmark contribute between one and seven percent of the total hazardous waste load. If the benchmark were dropped to 100 kg per month, the additional waste captured would be a far lesser amount. And, if the benchmark were lowered even further to 25 kg per month, the additional amount of hazardous waste captured would be miniscule. However the benchmark is lowered, the conclusion is the same: there would have to be a great deal of effort and public expense to control a very small portion of the waste. It seems imprudent to extend limited public and private resources to enforcing the 25 kg notice for such a small amount of additional waste control.

It is important to repeat that EPA currently has, and exercises authority to regulate particular "ultra-hazardous" wastes at lower benchmarks. Hence, public health and environmental protection are assured.

A MISPLACED RATIONALE

It appears that much of the rationale for lowering the benchmark to an extremely low figure, e.g., 25 kg per month, stems from the recent publicity surrounding Times Beach, Mo. Here, approximately 10 or so years ago, waste oil containing dioxin was spread on the ground to control dust. At that time, this was a legal procedure. Under the current RCRA regulations, any law-abiding firm would not dispose of such material that way. Further, it is not known whether the generator of the dioxin containing sludge knew or understood then that the sludges contained dioxin. This is pointed out to illustrate that the state-of-the-art and public understanding have matured since the Times Beach incident.

Needless to say, we do not condone what happened at Times Beach, nor approve of repeating such practices. Properly, our society has learned from the experience and we hope that nobody is hurt by what happened. At the same time, this bit of history is emphasized to say that it should not be the reason for "racheting down" present RCRA regulations on small businesses if there is no commensurate environmental quality improvement.

THE SHELBY-LENT AMENDMENT—A WORKABLE ALTERNATIVE

Balancing proper environmental control of the hazardous waste from small generators with a reasonable regulatory and financial cost to small businesses is possible.

After debate over this issue last year, the chamber worked with several business and environmental groups to find an appropriate regulatory program to capture hazardous waste and protect the environment without burdening the small generator community. We have accomplished these goals and the results of our joint efforts are contained in the proposal to be offered by Representative Shelby and Representative Lent to H.R. 2867 on the House floor.

The Shelby-Lent amendment is a workable alternative to section 3 of H.R. 2867 and provides the following:

An 18 month deadline for EPA to promulgate regulations which would reduce the small generator benchmark to 100 kg per month, provide for a 180 day storage period, require manifesting and disposition at federally permitted hazardous waste facilities, and otherwise vary from existing regulations as long as sufficient to protect human health and the environment;

A notification requirement effective 180 days after enactment applicable to generators generating more than 100 kg per month; and

The automatic reduction of the small generator benchmark to 100 kg per month 30 months after enactment if regulations are not issued, coupled with basic manifesting and disposition of the waste in a permitted hazardous waste facility.

The amendment will also call for assistance from EPA to educate small generators about their responsibilities to assure compliance with RCRA and avoid frivolous enforcement or unintentional harassment. Also, it preserves EPA's authority to lower the regulatory benchmark further as may be necessary to protect human health and the environment.

The chamber believes the Shelby-Lent amendment represents a reasonable first step toward providing a rational basis for regulating and educating small generators

without the confusion built into section 3 of H.R. 2867. It offers the following advantages:

The requirements are phased in over a 2-year period of the same universe of generators—first the notification requirements and then management requirements. This avoids H.R. 2867's confusing system of differing levels of control.

There is certainty as to which small generators will be covered. Thus, a 2-year planning and all important education period is provided so that the Federal and State authorities, as well as the business community, can make the system work.

The regulatory benchmark of 100 kg per month has already been adopted by a significant number of States, thereby increasing uniformity in the area and easing the integration of existing programs. The State programs will work better than now because of the nationwide education efforts.

BANNING THE LANDFILLING OF CERTAIN WASTES

Section 5 of H.R. 2867 requires EPA to promulgate regulations within 12 months to ban the landfilling of certain wastes, such as chlorinated organic compounds. However well-intentioned, this amendment is technically flawed and an unreasonable imposition on small businesses generating these wastes.

There is a related irony concerned with congressional deadlines in RCRA and it is hoped that this section of H.R. 2867 will not cause history to repeat itself. In October 1976, when RCRA was passed, Congress required EPA to promulgate subtitle C (hazardous waste) regulations within 18 months. Nobody had ever before written such regulations or even technical guidelines for the disposal of hazardous waste, which had not yet even been defined. (Part of the irony is that Congress required EPA to promulgate guidelines under subtitle D for municipal waste disposal within 24 months, in spite of a great many textbooks and engineering guidelines available on construction and operation of appropriate sanitary landfills.)

About 3½ years after RCRA was passed, and under court imposed deadlines, EPA published some of the necessary regulations, not all. These were immediately contested in court by both industry and environmentalist groups because of flaws. The regulations were withdrawn in early 1980 and reissued in early 1981, when they were accepted as adequate and appropriate by all affected parties. Thus, the subtitle C hazardous waste regulations were issued in final form 4½ years after passage of RCRA and 3 years after the congressional deadline. This illustrates that congressional deadlines on technical matters, while somewhat forcing, cannot anticipate the development of necessary understanding and technology.

The irony of this schedule is that during the interim, while people all over the country were waiting for the final regulations, they stored their hazardous waste, uncertain how to proceed and how to invest. This storage contributed to the present problems and dilemmas of hazardous waste management, although to an unknown and probably indeterminate extent. Now, history is to repeat itself likely in the form of section 5 of H.R. 2867, banning certain wastes from landfills.

Landfilling is a technically acceptable method of disposal and has been at least since Roman times—if properly practiced. Current regulations and practices will protect the environment but can not correct past abuses. I submit, from a technical standpoint, that chlorinated hydrocarbons and other wastes have migrated from landfills into groundwater, in all likelihood because the landfills were improperly designated, operated, monitored, or sited to begin with. Section 5 of H.R. 2867 will not correct these deficiencies, is unnecessary to protect against further such abuses, and most important, will present a disposal problem to small businesses not commensurate with any environmental protection. There are two reasons.

First, if EPA does not meet the deadline in section 5, the subject hazardous wastes will have to be stored, possibly stressing the capacity of permitted facilities and encouraging illegal facilities. In any event, it will add to the problems, not ameliorate them, as in the past.

Second, the alternative to landfilling will be much more expensive incineration. Regulations now require 99.99 percent destruction of the waste, which is technically possible but costly. There are few appropriate incineration facilities and they are difficult to site—anywhere. Passage of section 5 of H.R. 2867 will not make it easier to site such facilities.

What then is small businesses generating such wastes to do? Are they to pay for months or years of storage at worst, or pay for extremely expensive incineration sometime in the future, at best? In either case, how do they marshall the expertise and ability to monitor the storage and disposal, because under the Comprehensive Environmental Response, Compensation and Liability Act ("Superfund") they will share liability if anything goes wrong.

Section 5, of H.R. 2867 imposes dangerous and expensive requirements on small and large businesses without commensurate environmental benefits. It should be striken. What is needed in its place are properly sited, designed, built, monitored, and operated hazardous waste landfills and other disposal facilities. We regret that the Energy and Commerce Committee did not address the problem of siting, the most important today, as a means of appropriate hazardous waste management, instead of including provisions such as section 5, however well meant.

CONCLUSION

Because of the total quantity of waste, and because of the large number of businesses involved, regulations for control of hazardous waste from small generators must reflect a balance between proper environmental protection and minimum financial and regulatory burden on business.

The Shelby-Lent amendment provides that balance. It establishes regulatory guidelines for EPA to capture a significant portion of the nation's hazardous waste without undue burdens on small business.

Similarly, the ban on landfilling in H.R. 2867 imposes unreasonable provisions regarding the landfilling of certain wastes, particularly in the way it imposes a deadline on EPA to develop regulations. Small businesses will find there will be no place to send the listed wastes, will pay for storage for a long period of time, will be liable if anything goes wrong in this period, and will be hoping to have expensive incineration plants which are difficult to site. The management of hazardous waste will not improve; it will get worse. Landfilling is an acceptable disposal method, it can protect public health and the environment, if properly designed, sited, and managed (including monitoring).

We urge this subcommittee recommend to the Congress support of the bipartisan amendment to be offered by Congressman Shelby and Lent regarding small generators, and point out again that this amendment has the support of both business and environmental groups. We further urge this subcommittee to recommend to the Congress striking section 5 of H.R. 2867, concerning bans on landfilling, and that the Congress, EPA, and others re-think this section and try to assist the siting of proper disposal facilities.

APPENDIX

SMALL BUSINESS SURVEY ON AWARENESS OF HAZARDOUS WASTE REGULATION—SUMMARY OF FINDINGS

INTRODUCTION

This report presents the findings of a survey to evaluate small business awareness of state and federal hazardous waste regulation.

Part of the interest in lowering EPA's small generator exemption level to 100 kg/month is based on the belief that similar regulatory programs in place in more than twenty states cause no burden for small businesses. It was the objective of this survey to test this assumption as well as to inquire into some of the hazardous waste management practices of small business.

METHOD OF SURVEY

During the week of March 27, 1983, local chambers of commerce and 40 small businesses in six states, all of which have a regulatory exemption level less than 1000 kg/month for hazardous waste, were contacted.

Each business was contacted by telephone to determine:

Level of knowledge of existing hazardous waste regulations, both federal and state;

Source of information as to the small generator requirements;

Level of awareness that they may generate some quantity of hazardous waste; and

When possible, the telephone interviewer spoke directly to the owner of the establishment. In all cases, however, survey responses were gathered from persons with managerial responsibility.

The following States were selected because of their low regulatory exemption levels.

State	Exemption level	Number surveyed
Rhode Island	0	5
Louisiana	0	7
Minnesota	0	7
New York (kg/month)	100	8
New Jersey (kg/month)	100	7
Michigan (kg/month)	100	6

KNOWLEDGE AND AWARENESS OF HAZARDOUS WASTE: RESPONSE TO QUESTIONS

What do you know about Federal hazardous waste laws?

No knowledge—35 percent.

Little knowledge—57 percent.

Fairly familiar—8 percent.

A vast majority of those small businesses surveyed (92 percent) have little or no knowledge of Federal hazardous waste laws; 8 percent said they are "fairly familiar" with RCRA.

Are your State hazardous waste laws the same or different than Federal hazardous waste laws? If different, how do they differ?

No knowledge—50 percent.

Same—12 percent.

Different—38 percent.

In this case, 62 percent were misinformed or had no knowledge as to the significant difference between their State and the Federal hazardous waste law. Of the 38 percent who said the laws differed, none could say how they were different. This significant finding—that 100 percent of those responding have no specific knowledge of the lower exemption level—at best, shows confusion as to what is required of small generators and, at worst, is symptomatic of an unworkable regulatory program.

How were you made aware of your State hazardous waste laws?

Business-trade association—61 percent.

News media—15 percent.

Waste hauler—zero percent.

State EPA—zero percent.

Federal EPA—zero percent.

No knowledge—24 percent.

A majority said they were educated by various business and trade associations. The only other information source cited was the news media. Almost a quarter of those surveyed had no knowledge of state hazardous waste laws.

Significant by its absence is any reference by the respondents to state environmental agencies or the waste haulers as sources of information on state hazardous waste laws. This lack of communication as to what responsibilities small generators have in managing their wastes is evident in each state surveyed.

Do you generate hazardous waste?

No—43 percent; Yes—57 percent.

Of those aware that they generate some hazardous waste, most were not sure as to exactly what type or why the waste would be hazardous.

What do you do with your wastes?

Dispose in trash—87 percent.

Special disposal used—13 percent.

Special disposal for most of those surveyed was anything different from a normal solid waste disposal service. Only one respondent possessed a state identification number, manifested his waste and used a licensed hauler for hazardous waste disposal. His present hazardous waste disposal costs range between $250 and $350 per month. In contrast, the regular solid waste disposal cost for the same business is $60 per month.

CONCLUSION

Based on the survey results of forty small businesses believed to generate small quantities of hazardous waste and located in states which have a low exemption level, or no exemption level, for regulating hazardous waste, the following information has been gained:

Most small generators have little or no knowledge of hazardous waste laws;
There has been little contact between state regulatory agencies and small generators as to the requirements of state hazardous waste laws;
Small generators gain most of their information on waste management from business/trade associations and not from state agencies or from their waste haulers; and
Most small generators now combine their wastes and use normal solid waste haulers for disposal, and thus do not incur additional disposal costs or regulatory burdens.
Although state hazardous waste laws affect small businesses, the state agencies apparently do not educate the business people. This conclusion was reinforced by interviews with local chamber officials. Therefore, the effectiveness of such hazardous waste regulatory programs, as well as the associated burden on small business, cannot be measured accurately. To assume that a similar federal regulatory program would not be overly burdensome on small business is not justified.

Mr. SKELTON. I would, without objection, suggest that all of the written statements and appendixes attached thereto of each of the witnesses to facilitate this hearing be included in the record in full. I suppose you are requesting that, and I assume that all of the other witnesses will do the same. If I hear no objection, we will so do that.

Mr. Hiler.

Mr. HILER. Thank you, Mr. Chairman.

I wonder, Doctor, if you might comment directly on the Shelby-Lent amendment approach?

Mr. ALTER. Well, sir, that is an approach that the chamber, among others in the so-called small generator coalition, sat down with a number of environmental groups and we recognized each other's objectives, each other's problems, each other's approaches, and said, all right, how do we meet these in a compromise fashion? That is the Shelby-Lent proposal.

I submit it is a unique environmental proposal, because of the way in which it was arrived at. I wish there were more such proposals we could do this way. But this, I believe, satisfies, from our point of view, the needs of our small business members and from the environmentalists' point of view, the needs of environmental protection.

Mr. HILER. When you say that it is a environmental business compromise. I wonder if you might give us an indication of who the environmental type organizations were that you might have worked with?

Mr. ALTER. The Environmental Defense Fund, the Audubon Society, and the Sierra Club.

Mr. HILER. And they support this amendment?

Mr. ALTER. Yes, sir. They so testified before the Senate committee.

Mr. WALKER. Mr. Hiler?

Mr. HILER. Yes.

Mr. WALKER. The testimony that was given before the Senate Environmental Pollution Subcommittee, both the chamber and the respresentatives from those organizations testified to support the proposals that are included in the Shelby-Lent amendment word for word.

Mr. HILER. Thank you.

The 25 kilogram notice requirement seems to be one of the provisions that suddenly takes this new regulation from 130,000 generators potentially up to hundreds of thousands of generators. In

your view as a scientist and someone who has studied this issued you spoke, very eloquently about what we are getting for that particular cost and an enhanced environment. Maybe you could just comment on that relative to that particular notice requirement on the 25 kilograms.

Mr. ALTER. A key for environmental protection and worker protection on disposal facilities is that it is hazardous or nonhazardous.

As Mr. Thomas pointed out, there are certain materials that are regulated at 1 kilogram per month for good reason. I think there are other wastes that are regulated at a low level.

As a chemist, for example, I knew since the time that I was in school that laboratory wastes were handled differently—not necessarily handled well, 30 years ago, but differently. And they are still handled differently, and I believe well today—even to the point of education at the high school and the college laboratory levels. Those are very special wastes, and that is where you want to protect the environment.

When you consider that certain paints could be classified as hazardous because of the nature of the pigment, and if there is a spill and it is wiped up and all the rags and the paper towels are classified as hazardous, all of a sudden, a small hardware store is faced with a load that could easily exceed the 25 kilograms. It is an arbitrary number that is not justified, in my view, by the orders of magnitude of waste generators and numbers of firms affected that we known of so far. Hopefully, after the EPA survey, we will know a lot more.

Mr. HILER. I thank the gentleman.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. Thank you very much for your comments.

I noted with interest that you were touching on landfilling. Everything I have read of late indicates that landfilling, as you indicated in your own statement, is something that has been with us since the Roman times.

On the other hand, as I said, everything I read is that this system that we have had so long is no longer really the best way to go.

From your comments, you would seem to indicate that landfilling is an acceptable way of disposing of hazardous waste. Yet again, the documents, and the testimony shows that this is probably the most impractical way. It is the cheapest way, of course, but it is not the most healthful way to dispose of waste. What essentially is the basis for the rationale for your saying that it is?

Mr. ALTER. Well, sir, please, I am not saying there is a single best. I have an aversion to superlatives.

However, we are discussing management, a system for handling different wastes in different ways. The landfills that have been bad were sited poorly. It is wrong, absolutely wrong, technically and in good conscience, to site a landfill over an aquifer, yet that has been done. Years ago, people would say we will put the municipal landfill in the cheapest place, the most politically acceptable site, rather than the one that is hydrologically and geologically acceptable.

Today, we now have requirements for subtitle C landfills to be lined, have an impervious liner of one sort or another. There is groundwater protection, lysimeters, to monitor what might leak.

Mr. TORRES. Again, I understand that there is no liner that has been developed that doesn't leak or break at some point.

Mr. ALTER. People are asking for absolute certainty for something not to leak or break after 99 years or more; that is an impossibility. However, the way this is overcome is to use monitors, lysimeters, and groundwater monitors, around the landfill so as to detect an early break. That is the protection. That is part of the management system.

Remember, all materials cannot be recycled, and all materials cannot be incinerated. Some materials have to go back into the land.

For the most part, I would venture, around the world landfilling has been much more safe than unsafe. It is the few exceptions that we would note, and in some cases, those exceptions can be traced back to poor management techniques to begin with. That is why you passed RCRA. That is why we have both subtitle C and D regulations.

Mr. TORRES. Thank you.

Mr. SKELTON. Mr. Bedell.

Mr. BEDELL. Thank you, Mr. Chairman.

I am sorry I am late and did not get to hear all of your testimony.

First of all, Mr. Chairman, I did have an opening statement. I would appreciate it if I could have it entered in the record.

Mr. SKELTON. Without objection, we will include it in the record.

[Congressman Bedell's opening statement follows:]

OPENING STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

I want to commend you on holding this hearing today on the small generator provision of the Resource Conservation and Recovery Act. As you know, this is a highly controversial issue; one which has sparked a great deal of debate. This legislation plays an extremely important role as we seek an effective approach to hazardous waste control. I have worked to seek a reasonable balance between environmental protection and the special concerns of small generators of certain hazardous wastes.

I have been involved with this legislation for quite some time. Last year when I chaired this subcommittee, we held hearings in New York on the recovery of waste oil. I've worked a great deal with the Energy and Commerce Committee, with Mr. Florio in particular. Out of those efforts, we drafted a RCRA bill that recognized the value of certain recyclable wastes. We agreed that when waste oil collected by service stations is properly recycled and adequate invoice records are kept, these stations are not intended to be subject to additional reporting requirements under RCRA.

As we get underway this morning, there are three points I would like to make. First of all, we realize that the materials we are discussing here have already been identified as hazardous. Second, it is reasonable to expect in the final RCRA bill that all hazardous wastes are to be disposed of in federally permitted facilities. And third, recordkeeping requirements should be kept at a minimum for small generators. Some degree of recordkeeping requirements is in the best interest of small business. After all, within the next decade, it is possible there will be many lawsuits against generators. It is important for small business to satisfy Federal requirements to prove they've been complying with state-of-the-art methods to dispose of their waste.

I look forward to hearing the witnesses' testimony here today and hope that we can explore all the options available to us with regard to small quantity generators and RCRA.

Mr. BEDELL. Second, I certainly would like to commend those who have worked out a compromise that would help solve all of these problems. I think there has been a lot of positive results from that.

As Mr. Hiler indicated, I think the big controversy concerns the amount of waste which should be considered a problem. You indicated the problem of the hardware store or somebody who has dirty rags and paper towels. If the legislation were to indicate that anything that was not a part of the hazardous waste, that is, container, towels, would not be counted in the weight, what do you feel should be the permissible weight of the waste?

Mr. ALTER. Well, sir, I don't think it is that simple because, under the mixture rule, what happens is a small amount of hazardous waste in a large quantity of other wastes makes the entire mixture hazardous.

Mr. BEDELL. Yes.

Mr. ALTER. This means that the towels, once they touched this material, are now classified as hazardous. So if you exclude the towels, where does it stop? It abrogates the mixture rule.

So I think we cannot take a small change in the rules. What we have to do is hopefully rethink the definitions of hazardous waste, and maybe go to a classification of degrees of hazard, like 1 through 4, or something of that sort, and the quantities regulated under each classification could be different.

Mr. BEDELL. That is not really my question.

I think there is legitimacy to your argument. If somebody has a whole bunch of dirty rags that they used in wiping up hazardous waste, and the total weight of that box of rags is 50 kilograms, only 5 kilograms of which is hazardous waste, for them to have to report the entire 50 kilograms would be a problem.

If you knew that, even though you had 200 pounds of rags, that you had only 5 pounds of hazardous waste, would that change your opinion in regard to this compromise that is trying to be worked out?

Mr. ALTER. Permit me not to give you a yes or no, but say why I can't. You have to start to rethink how that amount is going to be estimated.

There is much merit in what you say. For example, the filter cartridges from a dry cleaning store contain a quarter of a percent and upward of perchloroethylene, but the entire weight of filter cartridges today is classified as hazardous. I think what you suggest is it would only be a quarter of percent and, therefore, not hazardous.

Mr. BEDELL. That is right.

Mr. ALTER. The key would be how to estimate the amount of waste, the amount that is hazardous. Is it, off the top of the head, reasonable? I don't know.

Mr. BEDELL. I believe it would be fairly easy to estimate the amount of waste which is hazardous. You just told me what it was for a filter cartridge in a cleaning establishment, so I don't know that it is that great a problem.

Mr. ALTER. Let me give you another example where I don't know what the number is.

Let's take a small contractor who is caulking some building. He has a number of empty tubes from caulking cartridges. The small amount left in the nozzle, perhaps because of its flammability or some other characteristic, is hazardous. He now has 500 tubes as a result of doing a job. How do we estimate how much is in each tube? What if the tube is not completely exhausted. If he can say, "Well, I know how much is just in the nozzle and I will multiply it by 500," the complications start to go. That is why I would say there is merit in your proposal, but I don't want to jump in with both feet and commit myself.

Mr. BEDELL. Frankly, Doctor, you sound like a typical bureaucrat. You say we can't calculate the percentage of waste that is hazardous. I don't accept that. Maybe I should, but I don't.

But if you could, and if we could establish some way of handling that, would you feel that would solve the problem?

Mr. ALTER. If that could be done and it could be done in a way that is unambiguous enough so that there is no harassment of the small businessman who is doing it, I go along with it. I think it is a good idea.

Mr. BEDELL. Great.

Mr. SKELTON. We are going to have to move along.

One last question, Doctor.

Mr. ALTER. Yes, sir.

Mr. SKELTON. You spoke about the need for education and a period of time under which education must take. Is the U.S. Chamber of Commerce willing to commit itself to assist in this educational process?

Mr. ALTER. Not only are we willing, sir, but we are able. We have already given consideration to national teleconferences using our business television network to reach these people so as to be able to tell them what it is about.

Mr. SKELTON. Thank you so much.

Mr. ALTER. Thank you, sir.

Mr. SKELTON. Our next witnesses are David Rose and Arleen Shulman. Mr. Rose is representing the Newtown Corp., Lexington, Ky. Ms. Shulman is representing the National Solid Wastes Management Association, Washington, D.C. I would suggest you limit your comments to 5 minutes or thereabouts so we will have adequate time for questions.

TESTIMONY OF DAVID ROSE, EXECUTIVE VICE PRESIDENT, NEWTOWN CORP., AND FACTORY SERVICES, INC.; ACCOMPANIED BY ARLEEN SHULMAN, FEDERAL AFFAIRS MANAGER, NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION

Mr. ROSE. I think we can manage that, sir.

My name is David Rose, executive vice president of Newtown Corp. and Factory Services, Inc., Lexington, Ky. With me is Arleen Shulman, Federal affairs manager of the National Solid Wastes Management Association.

Newtown Corp. is the operator of a 450-ton per day transfer station under contract to the Lexington/Fayette County urban government. Factory Services, Inc. is an industrial and commercial

waste hauler, as well as a registered transporter of hazardous waste.

I am speaking here today not only for my companies, but for the National Solid Waste Management Association, which represents some 2,000 member firms in the waste industry. Most of the members of that association are involved in garbage collection, hauling, and disposal, and the majority of them are small businesses.

Today we are asking Congress to give us a tool to prevent injuries from exposure to hazardous waste, an issue about which Congress has already expressed great concern. Three of my employee were hospitalized last month after coming in contact with the fumes of a container of hydrochloric acid which was dumped early in the morning of June 27. The fire department, in addition to closing us down for the day, sorted through the trash for most of the day to find the several containers of potassium hydroxide and a 5-gallon container of hydrochloric acid which was dumped in our transfer station used by trucks from all over Lexington and Fayette County. Today marks 1 month, and the employees are still having pulmonary difficulties, and our costs have exceeded $5,000 for the incidents.

This is one of many incidents or near incidents that our industry comes in contact with just about every day, and that is when small quantities of hazardous waste are hidden in a garbage bin. Most of these accidents involve truck and landfill fires, chemical burns and respiratory problems. We are submitting for your record brief descriptions of those incidents that have been reported to us within the last year.

For example, in Boston, workers were overcome by fumes from a container that they were loading into a collection truck. In Baton Rouge, a rolloff container simply blew up from a small amount of sodium which was exposed to air and water. In Evansville, Ind., a landfill fire which took 1½ hours to put out was traced to a box of chemicals put into a trash bin that came from a high school chemistry laboratory.

In some of these situations, the garbage hauler was told that he had to continue to take the hazardous waste and, if he didn't the company would hire another trash hauler. Our members do not believe that we, as businessmen, should be put into a position of choosing between safety and our livelihood.

What we are asking for today is a simple uniform national requirement that a generator of hazardous waste notify their waste hauler of the existence of the hazardous waste, how much there is, and some idea of what it is or what about it that makes it dangerous. That requirement is contained in section 3 of the House bill. Although we would prefer to see all generators of hazardous waste required to notify haulers, we recognize the practical necessity of specifying a small level which would not be included. The House bill sets that level at 25 kilograms or 55 pounds per month.

We understand the amendment which is going to be offered sets the notification that 100 kilograms, or 220 pounds, to exclude businesses which produce hazardous waste only incidentally, not as a normal part of the normal waste stream. Unfortunately though, we have a problem with that, because even these situations can cause us the worst problems because we don't know it is coming—it is

unexpected—the odd drum of acid, the plastic container of caustic, the small piece of sodium. Our company is also a registered transporter of large quantities of hazardous waste, and we are registered in 14 States for said transportation. But our problems result from the unknown, small quantities of hazardous waste and not from the large quantities that we transport between States.

The occupational injury rate in the refuse business is very high, and so are the workers compensation rates. What we are asking Congress to do is help us reduce our injuries by asking American businesses to take some social responsibility for the hazardous waste that they do indeed produce, and to spend a few minutes a year in filling out a simple form which will tell us what we need to know so we can handle it. If we know it is coming, there is no difficulty; if we don't know it is coming, then we have got a problem. If necessary, we can maybe ask that customer to make different arrangements for the hazardous waste if we can't haul it. But we don't want to be forced into the hazardous waste business. Most of us are just garbage haulers.

Thank you for the opportunity to advise you on the adverse effects that existing law has on our small businesses in this country. We think the remedy is at hand in the provisions of the House bill.

We could certainly be pleased to answer any questions that you may have.

[Mr. Rose's prepared statement with attachments follows:]

PREPARED STATEMENT OF DAVID ROSE, EXECUTIVE VICE PRESIDENT, NEWTOWN CORP., AND FACTORY SERVICES, INC.

My name is David Rose, Executive Vice-President of Newtown Corp. and Factory Services, Inc., Lexington, Ky. Newtown Corp. is the operator of a 450 ton per day transfer station under contract to the Lexington/Fayette County urban government. Factory Services is an industrial and commercial waste hauler as well as a registered transporter of hazardous waste in 14 States. I am speaking here today not only for my company, but for the National Association of Solid Waste Management, the trade association representing the waste industry. Most of the members of that association are involved in garbage hauling and disposal, and a majority are small business.

Today, we are asking Congress to give us a tool to prevent injuries from exposure to hazardous waste, an issue about which Congress already has expressed concern. Three of my employees were hospitalized last month after coming in contact with the fumes of the contents of a container of hydrochloric acid which was dumped early in the morning of July 27. The fire department, in addition to closing us down, sorted trash for hours to find the several containers of potassium hydroxide and a five-gallon plastic container of acid in a transfer station used by trucks from all over Lexington and Fayette County. It has been 1 month and these employees are still having pulmonary difficulties, and our costs have exceeded $5,000 for the incident.

This is only one of many incidents or near incidents this industry has had when small quantities of hazardous waste are hidden in a garbage bin—most often, truck and landfill fires, chemical burns and respiratory problems. We are submitting for your record brief descriptions of incidents reported to NSWMA this year and last year. For example, in downtown Boston, workers were overcome by fumes from a bin they were loading into a truck. In Baton Rouge, a roll-off container at a landfill blew up from a small amount of sodium, an element which burns violently when exposed to water and air. In Evansville, a landfill fire which took 1½ hours to put out was traced to a box of chemicals put in a trash bin from a high school laboratory. In some situations, the hauler was told he had to continue to take hazardous waste or the business would hire another trash hauler. We do not believe a businessman should be put in a position of choosing between his safety and his livelihood.

What we ask for is a uniform national requirement that a generator of hazardous waste notify the waste hauler of the existence of hazardous waste, how much there is, and some idea of what it is or what about it makes it dangerous. That requirement is contained in section 3 of H.R. 2867. Although we would prefer to see all generators of hazardous waste required to notify haulers, we recognize the practical necessity of specifying a de minimus level which would not be included. The House bill sets that level at 25 kilograms or 55 pounds per month.

We understand that an amendment will be offered which sets the notification threshold at 100 kilograms or 220 pounds, in order to exclude businesses which produce hazardous waste only incidentally, not as a normal waste stream. Unfortunately, sometimes these situations can cause us the worst problems because it is unexpected—the odd drum of acid, the plastic container of caustic, the small piece of sodium.

The occupational injury rate in the refuse business is very high, and so are the workers compensation rates. It's just no easy work. What are we asking Congress to do is help us reduce our injuries by asking American businesses to take some responsibility for the hazardous waste they do indeed produce, to spend a few minutes a year in filing out a simple form which will give us the information we need to handle the waste safely or, if necessary, ask our customers to make other arrangements for disposing of the hazardous waste. Garbage haulers do not want to be in the hazardous waste business against their will.

Thank you for the opportunity to advice you on the adverse effects that existing law has on the small business in our country. The remedy is at hand in the provisions of H.R. 2867. We would be pleased to answer any questions you may have.

JUL 14 1983

LEXINGTON HERALD-LEADER

CITY/STATE

Section B

Tuesday, June 28, 1983

Classified B3
Obituaries B7

Herald-Leader/Charles Bertram

Lexington fire department Maj. Ron Meadows searched trash from transfer station yesterday for the container that held hydrochloric acid.

(OVER)

Acid left in trash puts three in hospital

[From the Lexington Herald-Leader, June 28, 1983]

Acid Left in Trash Puts Three in Hospital

(By Diane Amann)

A search begins today for the person who left a container of hydrochloric acid for trash pickup yesterday.

Three refuse workers were hospitalized yesterday with rashes, breathing difficulty and watery eyes after they encountered the chemical at the Urban County Government's garbage transfer station at 1555 Old Frankfort Pike.

In satisfactory condition yesterday at Good Samaritan Hospital were Gary Lee Isaacs, 27 of 131 Rogers Road; David Michael Parkerson, 33 of 488 Whispering Hills Drive; and Orville Shanks of 112 Rice Court, Richmond.

After sorting through the trash for several hours, Lexington firefighters discovered several containers of potassium hydroxide and a 5-gallon plastic container of hydrochloric acid, said Maj. Ron Meadows of the fire department's hazardous-materials unit.

Although both are toxic substances, Meadows said, "people who are exposed to hydrochloric acid will get the kind of reaction that these men had."

Sanitation trucks from all over Lexington dump their loads into a compactor at the transfer station; the compacted trash is transferred to the landfill on larger trucks.

Thus, tracing the source of the container could take time.

"But we're going to try," he said. "There's a regulation against putting any kind of liquids in dumpsters. The landfill does not handle anything that would get into the water table."

The container was already compacted, Meadows said, so firefighters don't know how much acid had been in the container.

The hospitalized refuse workers are employed by Newtown Corp., a trucking company that contracts with the government to transport trash from the transfer station to its landfill in Avon.

Newtown Corp. manager Jack Foster said the incident occurred about 8:15 a.m. while the men were hooking up tractor-trailers in a pit at the station.

"All of a sudden," said Public Commissioner Gordon Garner, "their eyes started watering and they had trouble breathing. It put them down pretty quick."

The compacting of pressurized containers occasionally causes explosions or fires at transfer stations, Garner said, but he added, "This is the first I've heard of this kind of thing happening."

EXAMPLES OF EFFECTS OF SMALL QUANTITIES OF HAZARDOUS WASTE IN TRASH
Reported to NSWMA in 1983

PLACE: Houston, TX

QUANTITY: 4 55-gallon drums SUBSTANCE: 90%toluene and ethyl acryatle label on drums

CIRCUMSTANCE: Roll-off collection vehicle dumped at landfill, drums spilled into landfill. Had to remove all contaminated fill. Substance is toxic and carcinogenic.

PLACE: Baton Rouge, LA

QUANTITY: under 100 kg SUBSTANCE: elemental sodium

CIRCUMSTANCE: Roll-off container emptied at landfill; when sodium came in contact with air and with damp fill, it blew up.

PLACE: Boston, MA

QUANTITY: Unknown SUBSTANCE: unknown

CIRCUMSTANCE: A rear-loader mechanized pick-up in downtown Boston. As loading the bin, fumes from the bin overcame the driver, and when two assistants came to help him, they also breathed fumes. They left the bin with generator and told him to get a hazardous waste company to handle it, then went for treatment to the hospital.

PLACE: Baton Rouge, LA

QUANTITY: 8 empty drums SUBSTANCE: Fiberglass resins

CIRCUMSTANCE: Drums were white with red skull and cross bones but hidden in large roll-off. Discovered when roll-off reached landfill and truck was turned away. Hauler had to pay to have it handled properly, and had to attempt to recover costs from generator.

PLACE: Auburn, MA

QUANTITY: under 100 kg SUBSTANCE: Paint, solvents, thinners

CIRCUMSTANCE: Rear loader compacted load which leaked all over road. Driver, attempting to stop the leak situation, emptied the liquid into a storm drain. Obviously wrong solution.

PLACE: Ashland, MA

QUANTITY: under 100 kg SUBSTANCE: Probably elemental sodium

CIRCUMSTANCE: Load caught fire as being unloaded at landfill.

PLACE: Ashland, MA

QUANTITY: unknown SUBSTANCE: unknown powder

CIRCUMSTANCE: Landfill operator noticed funny looking powders when truck was being unloaded; sent truck away.

PLACE: Evansville, IN

QUANTITY: unknown SUBSTANCE: Resins

CIRCUMSTANCE: A load from a roll-off vehicle caused a fire that took four hours to put out.

PLACE: Evansville, IN

QUANTITY: unknown SUBSTANCE: Resins

CIRCUMSTANCE: Part of landfill just blew up, with the fill catching fire as far as 100 yds away.

PLACE: Evansville, IN

QUANTITY: less than 100 kg. (1 cardboard box) SUBSTANCE: Misc. chemicals

CIRCUMSTANCE: School cleaned out its chemistry lab by dumping everything in the dumpster. When it was unloaded at landfill, caused a fire that took and hour and a half to put out and sent two people to the hospital.

PLACE: Atlanta, GA

QUANTITY: 2 55-gallon barrels SUBSTANCE: pesticide

CIRCUMSTANCE: When landfill compactor rolled over trash, pesticide from barrels sprayed in the air, killing a flock of birds flying over head and sending operator to the hospital for fume inhalation.

PLACE: Roscoe, Illinois

QUANTITY: One gallon bottle SUBSTANCE: Caustic material

CIRCUMSTANCE: Plastic bottle of caustic caused severe skin irritation. Same hauler reports many incidents at landfills which sprayed acids and thinners over trucks and operators, causing fires and fume inhalation.

PLACE: Chaffee, New York

QUANTITY: A couple of bottles SUBSTANCE: Chlorine

CIRCUMSTANCE: A plastic container inside a plastic bag contained pool chlorine which could have caused a fire inside the truck if not detected

PLACE: Rice, Virginia

QUANTITY: Less than 100 kg SUBSTANCE: A flammable powder or liquid

CIRCUMSTANCE: While welding the hopper of a compacting truck during repair, hauler found this substance when it started a fire which was extremely hard to extinguish.

PLACE: Galveston, Texas

QUANTITY: Six quarts SUBSTANCE: Furfural

CIRCUMSTANCE: Glass jars in trash broke when truck compacted garbage. Employees send to company doctor after complained of nausea and burning eyes. Hauler eventually identified type of substance and generator. This is a chemical which is irritating to skin, dangerous to the eyes and can be explosive.

PLACE: Boyne City, Michigan

QUANTITY: Two gallons SUBSTANCE: Ammonia

CIRCUMSTANCE: Sealed container burst under pressure, spraying the hauler's eyes and face. He had to seek medical attention.

PLACE: Hickory, North Carolina

QUANTITY: As much as two 20-gallon drums SUBSTANCE: Furniture finishing materials

CIRCUMSTANCE: Hauler finds these quantities in waste several times a year; so far, no serious consequences from this highly explosive material.

PLACE: Rochester, NY

QUANTITY: 1 55-gallon drum SUBSTANCE: Acids and solvents

CIRCUMSTANCE: In several incidents each year, company has detected single drums of hazardous waste, none of which have yet caused injuries because they all have been detected.

PLACE: Lyndhurst, NJ

QUANTITY: Several 20-gallon fiber drums SUBSTANCE: Unidentified powder

CIRCUMSTANCE: When a compactor truck began its packing phase, a fire erupted immediately. The load had to be ejected right there in that parking lot.

PLACE: Lexington, KY

QUANTITY: Several 5 gallon containers SUBSTANCE: Potassium hydroxide and hydrochloric acid

CIRCUMSTANCE: Three workers hospitalized while hooking up tractor-trailers at a transfer station. Fire department hand sorted trash for several hours before finding cause of the rashes and respiratory problems of the workers.

PLACE: Waterville, NY

QUANTITY: Partly filled pails SUBSTANCE: Generator would not identify

CIRCUMSTANCE: Worker exposed complained of violent itching and coughing. Because of uncooperativeness of generator, hauler was forced to give up the account.

PLACE: Canton, OH

QUANTITY: 1 cardboard barrel SUBSTANCE: Unknown

CIRCUMSTANCE: Fire in truck.

PLACE: Bridgeton, New Jersey

QUANTITY: 10 barrels SUBSTANCE: generator would not identify

CIRCUMSTANCES: Wastes when wet burst into flame, setting truck on fire. Generator insists they are not hazardous wastes. Hauler now uses special handling.

PLACE: Elmhurst, Illinois

QUANTITY: About 10 gallons SUBSTANCE: Battery acid, cleaning fluid

CIRCUMSTANCE: Wastes, both acids, ate through clothing and burned skin. Hauler was told that if they wanted to keep the account, they would have to continue to take the waste.

PLACE: Hollywood, Florida

QUANTITY: unknown SUBSTANCE: Pool chemicals

CIRCUMSTANCE: Chemicals in jugs set fire in truck causing serious damage to equipment and caustic fumes. Company tried to recover from customer, could not and decided not to serve that customer any more.

PLACE: Downers Grove, Illinois

QUANTITY: small amounts SUBSTANCE: Chlorine tablets

CIRCUMSTANCE: Small amounts of chlorine caused fire in truck, noxious odor which caused nausea, eye irritation, etc.

PLACE: Celina, Ohio

QUANTITY: 5 gallon buckets SUBSTANCE: Sulfuric acid

CIRCUMSTANCE: Bulldozer on landfill ran over buckets which exploded, sending fluid up over driver's entire body. He had to be treated for serious burns, and remains scarred.

PLACE: Lemon Grove, California

QUANTITY: Small containers SUBSTANCES: Pool cleaning acids, paint thinner, pesticides, cleaning solvents

CIRCUMSTANCES: Liquids spraying out of trash as it is being compacted. Various incidents affected fourteen employees in one year, one employee losing partial sight in one eye and others retain scars from burns.

PLACE: Pennsylvania

QUANTITY: Five to ten 10 gallon containers SUBSTANCE: Flammable ink

CIRCUMSTANCE: Containers labeled as containing ink with a flashpoint of 180° (not a hazardous waste) actually contained ink with a flashpoint of 114° (fails the ignitable characteristic test for a hazardous waste). Federal marshalls searched and impounded the truck! To date, landfill operator has not been charged with any offense but received quite a bit of public scrutiny as a "hazardous waste dump."

PLACE: Santa Barbara, CA

QUANTITY: several boxes SUBSTANCE: Paint filter elements

CIRCUMSTANCE: Substance was in a container; when the truck emptied the container into its hopper, the air got to the opening and it started a fire. The driver had to dump the load right there. Hauler had to cancel account when incidents persisted.

PLACE: Steamboat Springs, CO

QUANTITY: 5 1-gallon containers SUBSTANCE: Acids

CIRCUMSTANCE: Plastic trash bag with these containers inside were placed in hopper of truck; when it was compacted, liquid squirted on his face and eyes. Man was hospitalized with serious eye burns.

PLACE: St. Louis, MO

QUANTITY: usually one gallon containers SUBSTANCES: Thinners, chlorine

CIRCUMSTANCES: Miscellaneous waste sprays trucks when containers compacted.

QUANTITY: two 55-gallon drums SUBSTANCE: acid

CIRCUMSTANCE: One landfill attendant was hospitalized for 2 days with respiratory problems. Equipment also damaged. Hauler says that the company retrieved the drums and now denies any liability for the incident.

PLACE: Rochester, NY

QUANTITY: 36 quarts SUBSTANCE: Acid drain cleaner

CIRCUMSTANCE: Driver became dizzy, had respiratory problems and was taken to the hospital. Load had to be dumped, acid neutralized by fire department. Investigated by county health department.

PLACE: Columbus, OH

QUANTITY: cans SUBSTANCE: various

CIRCUMSTANCE: Old cans of material have caused burnt eyes, skin burns, etc.

PLACE: Carroll, OH

QUANTITY: 10 bottles SUBSTANCE: miscellaneous chemicals

CIRCUMSTANCE: Several years ago, a school cleaned out its lab, contacting the fire department for special handling. The fire department threw it in their dumpster, enveloping the collection truck in gas fumes, overcoming the driver who had to be given CPR. He never returned to this job. Hauler believes a similar incident could happen today.

EXAMPLES Reported to NSWMA in 1982 and 1981

PLACE: Wisconsin SUBSTANCE: Flammable

CIRCUMSTANCE: Resource recovery plant was severely damaged by fire caused by substance in a small tank.

PLACE: Pittsburgh, PA

QUANTITY: Small bottles SUBSTANCE: Miscellaneous chemicals

CIRCUMSTANCE: Trash truck caught fire when waste chemicals from a high school laboratory reacted with ordinary garbage inside the truck.

PLACE: Newburg, Oregon

QUANTITY: 10-15 gallons in plastic carton SUBSTANCE: Highly caustic stripper or degreaser

CIRCUMSTANCE: When tractor operator pushed load off to compact it at the landfill, the plastic drum acted like a waterfilled balloon and squirted caustic over the driver. Thirteen percent of his body was affected. At the time this was reported, it was unclear when the driver would be able to work again.

PLACE: Wisconsin

QUANTITY: Unknown SUBSTANCE: Unknown

CIRCUMSTANCE: Hauler reports several fires in his trucks "of unknown origin" and incidents of people being sprayed. Since he must bring trucks partially filled into maintenance area, a fire in one of these trucks could wipe him out.

PLACE: Newberg, Oregon

QUANTITY: Small containers SUBSTANCE: Ammonia-type wastes

CIRCUMSTANCES: After three warnings to a company to keep these wastes out of the trash bin, the fourth time a container spilled during compaction and the drivers were injured.

PLACE: Michigan

QUANTITY: 12 cases of one-pint cans SUBSTANCE: Paint with propellant

CIRCUMSTANCE: The propane in these cans could have caused explosions if compacted at the operator's landfill. Same operator reported detecting a 55-gallon barrel of concentrated hydrochloric acid before it could be compacted.

PLACE: Indiana

QUANTITY: Unknown SUBSTANCE: Acid

CIRCUMSTANCE: Employee burned by acid put in with refuse while emptying the container.

PLACE: Michigan

QUANTITY: Unknown SUBSTANCE: Flammable

CIRCUMSTANCE: Serious truck fire causing loss of vehicle from flammable waste in load.

PLACE: Ingalls, Indiana

QUANTITY: Various SUBSTANCE: Acids, chlorides, ammonias

CIRCUMSTANCE: Hauler reports that hardly a day passes that our trucks do not handle small amounts of hazardous waste, most of which is detected. The problem is when the material is compacted, causing eye injuries and chemical burns. He states "I have lost count of the fires caused by chemical reaction inside of the trucks...I could go into detail about specific incidents, ranging from finding live hand grenades to bottles of cyanide...It must be understood that I am talking about small amounts compared to tons hauled. However, it takes very little to do a lot of damage."

National Solid Wastes Management Association

1120 CONNECTICUT AVENUE, N.W. • SUITE 930 • WASHINGTON, D.C. 20036
TELEPHONE (202) 659-4613

EUGENE J. WINGERTER
EXECUTIVE DIRECTOR

PROBLEM: Small quantities of hazardous waste hidden in garbage injure workers in the refuse industry.

SOLUTION: Two minutes of paperwork twice a year.

HR 2867 would require generators producing more than 25 kilograms (55 pounds) of hazardous waste per month to use a modified hazardous waste manifest to notify the waste hauler of its type and quantity.

The notification consists of name, address, signature, and ONE of four alternative ways to identify the waste. Please turn this page over for an example.

UNIFORM HAZARDOUS WASTE MANIFEST
EPA Form 8700-22

1] Manifest Document Number / EPA I.D. Number

2] Page 1 of ___ Information in the shaded area is not required by Federal law

3] Generator Name and Mailing Address:
ABC Chemical Company
123 Oak Street
Anyplace, USA

4] Generator Phone Number

A] State Manifest Number

B] State I.D.

5] Transporter 1 Name

6] EPA I.D. Number

C] State I.D.

D] Phone #

7] Transporter 2 Name

8] EPA I.D. Number

E] State I.D.

F] Phone #

9] Designated Facility and Site Address

10] EPA I.D. Number

G] State I.D.

H] Phone #

11] U.S. DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)	12] Containers No.	Type	13] Total Quantity	14] Unit Wt./Vol.	K. Waste No.
a] Flammable Solid N.O.S., Flammable Solid, UN 1325	1	17H	55 gal.		
OR b] F003	1	55g	55 gal.		
OR c] Solvent recovery sludge	1	55g	55 gal.		
OR d] Ignitable	1	55g	55 gal.		

J] Additional Descriptions for Wastes Listed Above

K] Handling Codes for Wastes Listed Above

L] Special Handling Instruction and Additional Information

Generator's Certification: This is to certify that the materials named herein are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the EPA.

Joseph T. Doaks — Signature — Month Day Year — Date

Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name — Signature — Date

Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name — Signature — Date

Discrepancy Indication Space

M] Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in the discrepancy indication space.

Printed/Typed Name — Signature — Date

Mr. SKELTON. Mr. Hiler has some questions.

Mr. HILER. Thank you, Mr. Chairman.

You mentioned several things that happened, one in Lexington, Ky., and one in Boston. If we had the 25-kilogram notice requirement, would notice have been generated for those particular cases?

Mr. ROSE. Would it have been?

Mr. HILER. Yes. Were we dealing with 55 pounds of hazardous waste?

Mr. ROSE. We would know it is coming.

Mr. HILER. You mentioned a piece of sodium. One piece of sodium certainly doesn't weigh 55 pounds. That, undoubtedly, would have never come under this provision.

Mr. ROSE. Of course, some of those levels are de minimus. You know, you are never going to be able to do it all, but we need some notification every day.

Mr. SKELTON. May I interrupt?

That is an excellent question, and I think this subcommittee should have the answer to it. Would you submit for the record, sir, all the examples of your statement?

Ms. SHULMAN. Mr. Skelton?

Mr. SKELTON. Yes, can you answer those?

Ms. SHULMAN. Attached to our statement is about 5 or 6 pages of examples of incidents. Some of the quantities are given——

Mr. SKELTON. Mr. Hiler and I want to know if they fall under the 25 kilogram.

Ms. SHULMAN. The answer is some of them do and some of them do not.

Mr. SKELTON. Can you list what does and what doesn't? We would like for you to submit that to us, hopefully within a week.

Ms. SHULMAN. No problem.

[The following response was received by the subcommittee to the above question:]

You asked how many of the incidents we documented in the appendix to our testimony would have been prevented had generators producing over 15 kilograms per month and under 100 kilograms been required to notify the waste hauler.

In many of the selected cases we described, either the information we received from our member was not exact enough to make that determination or the member himself was unable to determine how much there was. There are 12 cases we reported where the amount was unknown.

To the best of our ability to ascertain amount, there were 17 cases we reported which fall between 25 kg and 100 kg, 7 cases which were over 100 kg and 9 cases which were under 25 kilograms. You can certainly understand why in principle we would support notification down to zero, and in practice down to a level which is virtually equivalent to zero. Twenty-five kilograms per month is a level which we can support.

Mr. SKELTON. Mr. Hiler.

Mr. HILER. Thank you.

I wonder if I might ask another question. What kinds of people do you haul for?

Mr. ROSE. Industrial and commercial waste, small businesses and large businesses.

Mr. HILER. The small business that you typically haul for, do you think that if there is a notice requirement down to 25 kilograms that they are going to know what in the heck is going on?

Mr. ROSE. I think that they have to take some social responsibility. Headlines are made these days by hazardous waste. If they just used some common sense, and they think that they might have a problem, you know, "Maybe I shouldn't throw this into the trash; maybe I shouldn't throw it down the sanitary sewer system; maybe I ought to call somebody." They ought to be able to have some place to call, some way to notify somebody that they have got this, and that they need to handle it properly.

If we know it is coming, we could send a separate truck, we could make separate arrangements. It is what comes in that we don't know about that bothers us. That is what causes a problem; the notification is the key thing to us.

Mr. HILER. I guess what I am saying is that there are 15 million small businesses in this country, and it is estimated that under section C of the proposed bill that up to 700,000 to 800,000 businesses could fall under the provision of the 25 kilograms notice.

I am just wondering if you think, given the people you haul for on a regular basis—or on an irregular basis—that you think there is a good likelihood that all those people are not only going to become aware of this regulation, they are going to know how it should be applied, and are going to give you that notice?

Mr. ROSE. I think so. I think the States and the municipalities are beginning to recognize the problem of not only hazardous waste, but hazardous materials as a whole. We are beginning to see legislation, municipal legislation, dealing with hazardous materials. This is not just on a Federal level.

Again, we get calls day to day from people wanting to know, "I've got some hazardous waste, what can I do with it." Thank God they are calling, because when they call, we can tell them exactly what to do with it and how to handle it. If they don't call and they just throw it away, our 2,000-member firms, and maybe another 8,000 firms in this country, and their workers are going to be exposed to it 5½ days a week all year long.

Mr. HILER. I thank the gentleman for his response.

Thank you.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. Just a very quick question. While most of your accounts of accidents indicate generators perhaps were lax in their responsibilities, as you state, don't some of these occur because there are incidents of midnight dumping, people who will take advantage of somebody else's bin or backyard or whatever to dispose of material?

Mr. ROSE. Sure. We consider anybody who does that a midnight dumper.

Mr. TORRES. Is there any kind of reaction from the generators to that situation? How could you pin them down if it wasn't them?

Mr. ROSE. If we got into an investigative sort of thing, we could check their inventories, see what type of materials they use to process or to manufacturer or their end products without disclosing any proprietary information, giving them security on that. That is one of the big things that we are seeing, that small firms don't want to release what hazardous materials they are dealing with because they have some proprietary information and they are afraid that some trade secret might get out or something like that.

Mr. TORRES. Thank you.

Mr. SKELTON. Mr. Bedell.

Mr. BEDELL. Is all of your hauling just to landfills?

Mr. ROSE. No, sir. We haul to landfills, to recycling facilities and to secure landfills.

Mr. BEDELL. What would be the range of costs if I were to ask you to pick up some hazardous waste and haul it?

Mr. ROSE. We go by the mile.

Mr. BEDELL. How much per mile?

Mr. ROSE. I figure that, at present, we are charging $1.20 per mile; that is just for transportation.

Mr. BEDELL. The $1.20 per mile applies to what amount of waste being transported?

Mr. ROSE. Usually, that is by the truckload.

Mr. BEDELL. Thank you.

Mr. SKELTON. What is magic about the 25-kilogram figure that you suggest?

Ms. SHULMAN. Mr. Skelton, the 25-kilogram figure was not our idea, frankly.

Mr. SKELTON. If you had your druthers, what would you do?

Ms. SHULMAN. Zero.

Mr. SKELTON. All the way down to zero?

Ms. SHULMAN. Yes, sir.

Mr. SKELTON. Are any of the 20 States that have promulgated regulations, have they gone down to zero?

Ms. SHULMAN. Yes; there are two of them: Louisiana—but I am not really familiar with the way that program is enforced—and California.

I have just learned of a program in San Diego where they have found that the reason it is presenting difficulties and the reason the people aren't complying is the transportation problem. I think most small businesses want to be law-abiding citizens. So they have embarked on a pilot program to enable to relax the hazardous waste transportation regulations to allow small businesses to take it to the facility themselves; This is just starting.

Mr. SKELTON. How can a small business operation such as a mom and pop store of one sort or another properly identify hazardous waste?

Ms. SHULMAN. I think there are a number of ways they can do that. A lot of the stuff may come in a container, so the information is already there for them. If you have a process waste stream, you only have to test it once.

I am not sure what there is in the general realm of small business that would be so difficult to identify because it is either a waste product, which is identified by the manufacturer, or a waste stream, and they would have to test it, but perhaps only once, and they could rely on generic testing for the industry.

Mr. SKELTON. Thank you so much.

I would hope that you get the answers to our questions.

Ms. SHULMAN. We certainly will.

Mr. HILER. Mr. Chairman, may I ask another question?

Mr. SKELTON. Yes.

Mr. HILER. Have you found in Louisiana and California that your workmen's comp rates have gone down?

Ms. SHULMAN. I don't know. I can find out the answer for you.

Mr. SKELTON. Could you find and that supply that, too? We would appreciate it.

Ms. SHULMAN. Yes.

Mr. SKELTON. Thank you.

[The following response was received by the subcommittee to the above question:]

You asked whether workers compensation rates went down in States which effectively had no small quantity generator exemption. I think you know that workers compensation rates are affected by many different factors and it would be impossible to trace the effect of a single factor on the rate our members pay.

Mr. SKELTON. We now here John J. Contney, who is accompanied by Cecil Treadway and William E. Fisher to testify.

Gentlemen, please proceed, and please state your name.

TESTIMONY OF JOHN J. CONTNEY, EXECUTIVE DIRECTOR, TEXTILE RENTAL SERVICES ASSOCIATION OF AMERICA, AND CHAIRMAN, LAUNDRY CLEANING COUNCIL; ACCOMPANIED BY CECIL TREADWAY, PRESIDENT, GENERAL BOUCHELLE, INC.; AND WILLIAM E. FISHER, ADMINISTRATIVE ASSISTANT, INTERNATIONAL FABRICARE INSTITUTE, AND MEMBER, LAUNDRY CLEANING COUNCIL ENVIRONMENTAL TASK FORCE

Mr. CONTNEY. Good morning, Mr. Chairman.

Mr. SKELTON. Please state your name.

Mr. CONTNEY. My name is John Contney, and I am the executive director of the Textile Rental Services Association of America.

Mr. SKELTON. Will all three of you be making a statement?

Mr. CONTNEY. Yes, we will.

Mr. SKELTON. Please proceed. Remember our time constraints.

Mr. CONTNEY. Thank you.

The Laundry Cleaning Council represents six national trade associations with members in the drycleaning and laundry industry. In the interest of time, may I summarize my remarks, and I would like to request that our written comments be entered into the record.

Mr. SKELTON. Under the previous order, they are included.

Mr. CONTNEY. Thank you.

Our industry is primarily small business. There are approximately 72,000 businesses in the laundry and drycleaning industry. About 43,000 employ 343,000 people for an average of 8 employees per plant, and an annual average gross sales of $140,000. The remaining 29,000 businesses are even too small to be called mom and pop, because they are so small, they have average annual sales of only $17,400.

We are here to testify against H.R. 2867. The bill could have serious effects on many of the small businesses in the dry cleaning and laundry industry. These businesses are affected by the RCRA requirements because of the cleaning solvents used in the trade. Approximately 85 percent of the businesses use perchloroethylene—we call it perc—a listed substance; another 14 percent use petroleum solvent, which make an ignitable substance; and the remaining 1 percent use fluorocarbon, also a listed substance.

Although the bulk of the wastes generated in the drycleaning and laundry business is inert—these are the filter cartridges and filter powder referred to earlier in the testimony—the small amounts of perc and petroleum are still subject to all the RCRA requirements. Added disposal costs by H.R. 2867 cannot be passed on to consumers. EPA has documented that price increases in the drycleaning and laundry industry would reduce the quantity of cleaning demanded.

Price increases would result in a reduction in total sales revenue. Businesses in our industry could not cover added disposal costs simply by raising prices. The drycleaning and laundry industry is primarily small business. As I said earlier, the average drycleaning plant has gross revenue of only $140,000 a year. Profit before Federal taxes is approximately $4,200. Because of the low sales and profit of the average plant, the proposal RCRA requirements, particularly the amendments concerning the small generator exemption, and the prohibition on land disposal would have serious detrimental effects on our industry.

H.R. 2867 proposes to reduce the small generator exemption to 100 kilograms per month. If such a measure is enacted, most drycleaning and laundry businesses would be subject to the full spectrum of the RCRA requirements, since the average plant generates about 125 kilograms per month of the listed wastes. Based on the figures obtained from hazardous waste haulers in Maryland, for example, the estimated cost for the disposal for the average plant would range between $4,300 and $7,200 annually. Again, please compare that with our average annual profit of only $4,200. In effect the hazardous waste requirements would cost us our annual profit.

This added disposal complying cost would have serious repercussions on the financial stability of many of the small business drycleaning and laundry firms. More serious results could be caused by enactment of the land disposal amendment contained in H.R. 2867. This would likely prohibit the land disposal of wastes contaminated with perc, regardless of whether the small generator exemptions were 1,000 or 100 kilograms a month.

Such a prohibition on land disposal would require drycleaning firms to use the only available disposal alternative, which is a high-temperature rotary kiln incineration. The cost of such incineration would be approximately $1,100 a month, $13,200 a year, or three times the average plant's profit. We believe that the repercussions of such increased complying costs would be very serious indeed. Many of our firms would simply go out of business.

EPA has documented that industry characterized by low gross sales revenue and low profitability, such as drycleaning and laundry, face serious difficulties in passing compliance costs to the customers. The nature of the industry and competition means that small business drycleaners would not be able to pass these costs to the consumers.

Were H.R. 2867 enacted in its present form, many of our members would face serious difficulties. It is important to note that the environmental benefit gained in exchange for the serious consequences inflicted on our industry is really unknown. I believe that Mr. Florio testifed earlier that he even doesn't know the effect of

the environmental protection range if we reduce the range. I don't believe anyone does. As mentioned, most of the waste generated by laundries and dry cleaners is inert—that is the filter cartridges and filter powder—and it is only considered hazardous because of the small amounts of perchloroethylene in it.

Mr. SKELTON. I would point out the fact that you have two associates who want to testify, and we have a total of 15 minutes for questions in all.

Mr. CONTNEY. Fine.

I can summarize by saying this: We certainly support the efforts of hazardous waste, but we don't know whether the hazardous wastes, and listed wastes generated in our industry really is a problem. One impact is on the entire American fiber, fabric, textile, and clothing industry. What would happen in our economy if we would have to replace our entire wardrobes with such clothing that could not be dry cleaned?

I would like to call on now, if I could, Mr. Cecil Treadway, one of the member firms.

Mr. Treadway.

Mr. TREADWAY. Mr. Chairman and members of the committee, I appreciate the opportunity to speak to you.

I am president and owner of General Bouchelle, Inc., a cleaning company located in Chicago. I am currently president of the Textile Maintenance Institute of Chicago, whose membership is composed of large and small drycleaners and launderers in Chicago. In addition, I am a past president of the Illinois State Fabric Care Association, and I currently serve on its legislative committee. ISFA is made up of small drycleaners throughout the State. It has a membership of approximately 600.

I am voicing strong opposition to the two provisions Mr. Contney has already spoken of in H.R. 2867. I won't repeat the two and my arguments for them because they have already been stated. However, I would like to say that the Illinois drycleaners feel that it is important that study be made by EPA on the proper method of handling the disposal of wastes from small generators on an industry basis, including our own drycleaning industry.

Again, as was stated, we are not opposed to hazardous waste regulation, and we do support the provisions that were in S. 757, which provided for a study of small waste generators before regulation. As dry cleaners, we epitomize perhaps the small businessman who is just beginning to recover from the recession that we have been undergoing. The two provisions, the reduction in the waste generator level and the more serious proposal of the ban on landfilling, would certainly have a very adverse effect on our industry.

The question might be raised about why Illinois dry cleaners are opposed to the two provisions since Illinois is one of the States that does have a regulation on such a waste hauling passed in 1979 that has a small generator exemption level of 100 kilograms per month, which is one of the proposals here. This provision was included in the regulations. I can tell you that drycleaners in Illinois were totally unaware of its consideration and of the impact of this regulation. Drycleaners are very small businessmen, as has been pointed out. We have no attorneys or staff to monitor legislation on a State level, and certainly no one has told us the serious impact of the

reduction down to 100 kilograms per month. Had our State association or the Chicago association been aware of the consideration of this regulatior, which we were not, we would have fought strongly to keep the small waste generator level at 1,000 kilograms per month.

As it stands, most drycleaners are still probably unaware of the amount of waste generated per month. Since the regulation has not been enforced to any great amount, at least not to our surveys within our State—has not been enforced to date in our industry—it certainly is something that is untested.

Larger plants, such as industrial laundries, have used hazardous waste haulers for many years and they do comply. but it is the small drycleaner who continues to dispose of his filter muck, his cartridges, his still residues in landfills, many of them with their regular refuse.

I might say that we are concerned that we are lumped together with people in the hazardous waste category who are disposing of items such as have been mentioned here, such as the acids, such as perhaps dioxins that are life and health threatening. In our industry, we handle, almost on a daily basis, perchloroethylene and valclene. They are handled and they are inhaled with no serious effects. We have people how have worked with them for literally from 10 to 20 years and longer periods of time. We really feel that it is unfair to be lumped together with the more serious life and health threatening materials.

Incidentally, in Illinois, there are regulations which are under consideration by the Illinois Pollution Control Board which would prohibit the disposal of halogenated solvents, which include perchlorethylene. However, the Illinois Pollution Control Board has agreed to a special 2-year exemption for drycleaners when and if the regulation is adopted, in light of the fact that the drycleaning industry was not notified, was unaware of hearings to discuss the ban on disposal in landfills.

Now our State association plans to petition the Illinois Pollution Control Board to change the small waste generator exemption level, and to refrain from adopting the ban on landfilling of drycleaning wastes, but we will have no basis on which to make our appeal.

Mr. SKELTON. I am going to have to interrupt you so we can start our questions. If there is time left, the remaining witness can finish up.

Mr. Hiler.

Mr. HILER. Thank you, Mr. Chairman.

I probably have two questions to ask. Are you supporting the Shelby-Lent amendment?

Mr. CONTNEY. No, sir, we are not, because we were not part of that compromise, and we do not believe that it is in the interest of our industry. Our concept is that we believe there is no study to say whether 5 pounds of one substance is bad and 1,000 kilograms of another substance is good. We don't know. The amendment was a compromise, but it has no basis in fact or scientific evidence to support it.

Mr. HILER Doesn't the amendment call for a study? Essentially, it says—you were here for the testimony of Mr. Thomas from

EPA—that the amendment allows that study that is currently being undertaken at EPA to be concluded.

Let me just say that, if that amendment is not passed, then the hammer is going to come down in 24 months. It would seem to me while the Shelby-Lent amendment may not be your preferred solution, it would be better than what is probably going to be enacted.

Mr. CONTNEY. I think Mr. Fisher can answer that.

Mr. FISHER. Mr. Hiler, while the Shelby-Lent amendment will allow that already ongoing EPA study to be completed, the results of that study do not affect the small generator exemption. That small generator exemption will be 100 kilos, period, just as we now see in the markup of the Senate bill. A study is going to be done, but now that has been changed to 100 kilograms with no discretionary authority on the part of the administrator.

Mr. HILER. But I think what the study is going to say is it may be that—you were mentioning, sir, that the waste that is generated by the dry cleaner is not the life threatening wastes that may be, say, a dioxin. That is what that study is going to say, and there is going to be appropriate regulation written for that 100 to 1,000 taking that into account.

The alternative is to have much stricter regulations, that may not differentiate, and if the EPA does not enact a new regulation in 24 months, then you are going to come under full RCRA. I would suggest that that would be a far worse situation for you.

Mr. FISHER. Mr. Hiler, basically, we will be, in any event. The average drycleaning plant in our industry is generating about 125 kilos a month of total material that has a portion of hazardous waste in it. Obviously, we have a range above and below that 125, but that is the average number.

So, whether the study is completed or not, we will be above the small generator exemption for most plants. Additionally, we have section 5, which is the land disposal ban, and that says that for anything more than one-tenth of 1 percent of 85 percent of our solvents, we must go to an alternative disposal which will be incineration, and there is no exemption in that.

Mr. HILER. I am sure your association has looked at it. I would say you are making a mistake by not supporting Shelby-Lent, as least as better than the existing bill, but that is your decision to make.

I yield back.

Mr. SKELTON. Thank you.

Mr. Torres.

Mr. TORRES. Mr. Chairman, I have no questions. I will forgo my time.

Mr. SKELTON. Thank you.

Mr. Bedell.

Mr. BEDELL. You represent both large and small drycleaners or only small drycleaners?

Mr. CONTNEY Both large and small. Actually, we represent the entire laundry and drycleaning industry, large and small.

Mr. BEDELL. Do you represent anybody who comes under the act at this time?

Mr. CONTNEY We do not believe that anyone comes under the act at this time.

Wait. There are some.

Mr. BEDELL. You have people in Illinois, do you not?

Mr. CONTNEY Yes, that is right. There are some who do. Yes. I am sorry.

Mr. BEDELL. Are any of them abiding by the act in Illinois?

Mr. CONTNEY Yes, the very large industrial laundry plants.

Mr. BEDELL. Those that are abiding, are they having their wastes incinerated?

Mr. CONTNEY I do not believe so. I believe that is landfill.

Mr. BEDELL. Are those the only choices, landfill or incineration?

Mr. TREADWAY. Landfill or incineration.

Mr. BEDELL. They are the only choices available.

Mr. TREADWAY. Correct.

Mr. BEDELL. You mentioned the fact that your average drycleaning plant generates about 125 kilograms of waste per month, and that all of it is not called hazardous waste, but contaminated waste.

About what percent of that 125 kilograms would you say is really actually hazardous?

Mr. FISHER. I think we could give you a very good figure on that, and there will be a little difference in this. Unfortunately, Dr. Alter did misquote a number to you earlier. The one-quarter percent he quoted should actually be about 2 percent with new technology.

Currently, without new technology that has been developed through intensive research work by our industry over the past 6 to 9 months, on an average of between about 20 to 40 percent of all of our wastes is a solvent constituent. With work that we have been doing, we can reduce that down to a very low level, typically in a 2- to 3- or 4-percent range.

Translated for this hypothetical average plant doing 125 kilos a month, that will mean that the average retail plant in the United States will be disposing of two to three gallons of solvent itself per year.

Mr. BEDELL. Per year?

Mr. FISHER. Per year.

Obviously, again, that number will fluctuate, depending on plant size. The larger the plant, the higher that level would be. But as a good ballpark number to give a range on this, that is what we are talking about.

Yet, we would still fail both the section 3 small generator exemption and the section 5 one-tenth percent hazardous constituent ban on land disposal.

Mr. BEDELL. Thank you very much.

Thank you, Mr. Chairman.

Mr. SKELTON. Thank you very much, gentlemen. We certainly appreciate you being with us.

Mr. CONTNEY Thank you, Mr. Chairman.

[Mr. Contney's prepared statement with attachments follows:]

PREPARED STATEMENT OF JOHN J. CONTNEY, EXECUTIVE DIRECTOR, TEXTILE RENTAL SERVICES ASSOCIATION OF AMERICA, AND CHAIRMAN, LAUNDRY CLEANING COUNCIL

The Laundry Cleaning Council [LCC] welcomes this opportunity to present its views on the proposed amendments to the Resource Conservation and Recovery Act [RCRA] contained in H.R. 2867.

LCC represents six national trade association with members in the dry cleaning and laundry industry.[1] The industry is principally made up of small businesses. Of the approximately 72,000 businesses in the industry, roughly 43,000 plants employ some 343,000 people (or about 8 employees per plant), averaging among them annual sales of approximately $140,000. The remaining 29,000 stores, which have no paid employees, are so small that government statistics show average sales of $17,400 annually.

In light of the small business nature of our industry, we are very concerned about certain of the provisions of H.R. 2867. Any change that unnecessarily increases hazardous waste compliance costs would have a significant impact on the small businesses in the dry cleaning and laundry industry. We are particularly concerned about the proposed amendments regarding the small generator exemption and the prohibition on land disposal of all hazardous wastes. Either of these amendments along could increase hazardous waste disposal costs far above what the average dry cleaning or laundry plant could absorb without going out of business. As a consequence, many unskilled workers would become unemployed, workers who would have difficulty finding substitute employment in a tight job market.

PRICE SENSITIVITY OF THE INDUSTRY

As explained in detail below, the proposed RCRA amendments would significantly increase hazardous waste disposal costs for the average dry cleaner or laundry—the small generator amendment would increase costs between $4,300 to 7,200 annually and the land disposal prohibition would increase costs by as much as $13,200 annually. Before discussing the effects of these provisions in detail, however, we believe it is important to explain why industry members would be so seriously affected by such costs. That explanation centers on the inability of the industry to cover those costs simply by raising prices.

An analysis of the latest available statistics from the Consumer Price Index [CPI] and the U.S. Census of Business reveals that the volume of garments cleaned decreased significant as prices increased between 1971–81. Although the price increase during that time was only moderate (the increase for cleaning was 138 percent, almost identical to the CPT increase of 133 percent, the amount of cleaning done in pounds fell by 40.6 percent and the number of plants in operation fell by 12.9 percent. While other factors may have played a part in the industry's difficulties, it is inescapable that price increased had a serious effect on the volumes of garments cleaned.

In fact, EPA has concluded that price increases have a serious negative effect on total revenues earned by dry cleaners. Information gathered during the development of air emission standards for cleaning solvents (attachment A) shows that:

Dry cleaning is more a luxury than a necessity, and thus is notably affected by changes in economic factors. Consumers will substitute hand-washing for dry cleaning when economically necessary;

"Most commercial dry cleaners are family-run business . . . entered into to provide stable employment and reasonable income rather than high after-tax profits;"

Dry cleaning employment has not been so stable—between 1967 and 1977, retail dry cleaning has dropped from 31,000 to 22,000 pounds, while employees have dropped from 250,000 to 130,000; and, most significant

"Price elasticity of demand for dry cleaning . . . is estimated at approximately −2.3 percent. This means that for every 1 percent increase in price, the quantity demanded will decrease by 2.3 percent. *Therefore, price increases cannot be accomplished without hurting revenues.*" (Emphasis added.)

As will be explained, the RCRA amendments could cause industry members to incur added disposal costs equal to 9.4 percent of the annual sales revenue of the average dry cleaning plant. If plants attempted to raise prices by a similar percentage they would, all other things being equal, actually reduce their total revenue and aggravate their difficulties. We believe the subcommittee members must be aware of

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[1] International Fabricare Institute [IFI], Institute of Industrial Launderers [IIL], National Association of Institutional Laundry Managers [NAILM], National Automatic Laundry and Cleaning Council [NALCC], Textile Care Allied Trades Association, Inc. [TCATA], Textile Rental Services Association of America [TRSA].

this price sensitivity in evaluating the potential impacts H.R. 2867 could have on the dry cleaning and laundry industry.

SMALL GENERATOR EXEMPTION

The many small businesses in our industry are affected by RCRA principally because of the solvents used in commercial dry cleaning. Currently, approximately 85 percent of the plants with dry cleaning in our industry use perc—a halogenated organic solvent. A second solvent, fluorocarbon 113, is also a halogenated organic compound. Since dry cleaning systems can only use the specific solvent for which they are designed, operators cannot change their processes by simply switching solvents. Even if they could, the only other solvent available for dry cleaning—petroleum solvent (which produces a waste considered hazardous due to its ignitability)—could not be used as a replacement solvent in most areas of the country because of fire code restrictions.

Based on extrapolations of the 1977 U.S. Census of Service Industries Statistics (Attachment B), and using retail dry cleaning plants for purposes of discussion, the average plant has gross sales revenue of approximately $140,000. The average plant with $140,000 of annual sales would, according to operating costs survey statistics of the International Fabricare Institute (attachment C), clean approximately 1,400 pounds per week, depending on the particular type of solvent and filtration/distillation equipment used. The rate of total hazardous waste production would range between 25 to 57 pounds of waste per 1,000 pounds of garments cleaned, with a weighted average of 46 pounds of waste per 1,000 pounds of garments cleaned. Thus the average plant cleaning 1,400 pounds of garments per week would produce 64 pounds of waste per week, or 275 pounds (125 kg) per month.

H.R. 2867 proposes to reduce the small generator exemption level to 100 kg/month. Though most of the waste produced by dry cleaning plants is inert material, such a reduction would require the average dry cleaning plant to incur the added costs of meeting hazardous waste disposal requirements. According to hazardous waste haulers contacted in suburban Maryland, pick up charges can run as high as $300, not including the $30 cost per DOT 17E drum. Using data from Montgomery County, Maryland as a basis for comparison, the estimated cost for disposal of listed hazardous wastes from the typical plant ranges from $4,300 to $7,200 annually. Thus, most plants would incur significantly higher disposal costs.

We are aware that some States have established small quantity generator exemption levels lower than the current Federal level of 1,000 kg/month. Our information indicates that the added disposal costs to businesses that observe the lower State levels is well within the cost range just described. Of course, small businesses that are unaware of a lower State exemption level, or for other reasons do not observe it, do not incur the added costs.

The effect of higher costs incurred by reducing the small quantity exemption level is dramatically illustrated when viewed in comparison with the profitability of the dry cleaning industry. As mentioned, the average plant has gross annual sales of about $140,000. According to annual operating costs surveys (attachment C), the net profitability before Federal taxes for a plant of this size would be approximately $4,200 annually. The average profit, then, would easily be absorbed by the added annual disposal costs of $4,300 to $7,200.

LAND DISPOSAL

Small dry cleaning and laundry plants would likely be affected even more seriously by the land disposal ban of H.R. 2867 than by the reduction in the small generator exemption level. The proposed amendment to section 3004 of RCRA would require EPA to promulgate regulations within 12 months of enactment prohibiting the land disposal of specified hazardous wastes identified or listed under section 3001. In determining those wastes for which land disposal would be prohibited, EPA would consider those wastes which are prohibited from land disposal by a state and those which contain significant concentrations of halogenated organic compounds. Perchloroethylene (perc) and fluorocarbon 113 are halogenated organic solvents.

If EPA ultimately were to prohibit land disposal of any wastes contaminated with any trace of halogenated organic compounds, the only available disposal alternative for wastes from approximately 85 percent of the dry cleaning plants in the country would be high temperature rotary kiln incineration. Yet there are very few rotary kiln incinerators available to accept such wastes, a shortage that will not likely be resolved soon because of the elaborate permitting process through which each new hazardous waste incinerator must pass. Further, since these facilities will face de-

mands from the numerous generators of halogenated organic compound wastes, their availability to dry cleaners will be seriously limited.

In any event, the rotary kiln incineration process is simply too expensive for most dry cleaners. As mentioned, the average dry cleaning business produces about 125 kg of waste (approximately two drums) per month. The drums cost about $30 each and the high temperature incineration itself costs about $324 per drum. Pickup charges and transportation off-site can cost as much as $400 per month or more depending on transportation distances.[2] Thus, the total disposal cost for each plant for high temperature incineration would be around $1,100 per month, or $13,200 annually.[3] In contrast, as noted above, the 1977 average net pre-tax profit for retail dry cleaning establishments was a mere $4,200, less than one-third the cost of high temperature incineration. Since in most cases it would not be feasible for dry cleaners to change the solvent used in their processes or pass the costs on to customers, many would face serious difficulty.

While it is impossible to quantify with precision the effects the proposed amendments would have on the small firms in our industry, it is safe to say that significant hardship would be imposed and would result in increased plant closures and unemployment. A 1980 EPA contract study on the economic impacts of regulating small quantity generators has documented that the strongest indicator of a substantial likelihood of plant closures due to increased hazardous waste compliance costs is a low level of annual sales. (See attachment E.) Since the average retail dry cleaning plant has a low gross revenue level of approximately $140,000 and a low profit level of $4,200 (which is less than the estimated disposal cost of $4,300 to $7,200 annually under a 100 kg/month level and only a third of the estimated rotary kiln incineration costs), the increased costs caused by reducing the small generator exemption level could lead to plant closures in the dry cleaning industry, with other plants becoming only marginally operable.

Notably, the environmental benefits to be gained in exchange for the economic disruption just described do not appear to be significant. Of the 125 kg/month of hazardous waste generated by the average dry cleaning plant, the large majority is inert material. Because of extensive solvent recycling and reuse, the waste contains only trace amounts of perc. In fact, with newly developed technology just now being implemented, the hazardous constituent (perc) can be reduced to 1 to 2 percent, or less than one-half gallon per month. (See attachment F.) Accordingly, the proposed amendments' serious economic consequences would be inflicted merely for added control over disposal of annual waste with 3 to 5 gallons of hazardous constituent.

RECOMMENDATIONS AND CONCLUSIONS

The LCC supports the efforts of the Congress to eliminate the problems associated with the disposal of hazardous wastes. Further, we recognize that reducing the small generator exemption and prohibiting land disposal of certain wastes may play important roles in eliminating those problems. But we do not believe that these two matters should be treated by direct legislative rulemaking.

Congress should instead allow EPA to study these issues and then promulgate regulations concerning the disposal of wastes by small quantity generators and the land disposal of specific hazardous wastes. EPA is best suited to scientifically determine what benefits are to be gained in these areas and how to gain those benefits with the least adverse impact on small businesses like those in the dry cleaning and laundry industry. This expertise should not be ignored in developing regulatory regimes that will have the far-reaching impacts contemplated by the RCRA amendments.

Specifically, we believe EPA should be given two years to study the small generator issue and another year to develop regulations applicable to them. Such regulations should include a determination of the most appropriate exemption level. Further, if EPA determines that some regulation of small quantity generators is necessary (albeit something less than the full panoply of RCRA requirements), EPA should promulgate regulations applicable to those generators.

A similar study should be conducted of the land disposal issue. In fact, it would be desirous to direct EPA to conduct such a study in conjunction with a small generator study. EPA should be given adequate time to determine what land disposal

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[2] These figures are based on estimates obtained from a reputable hazardous waste disposer. This disposer, Rollins Environmental Services, maintains the only rotary kiln incinerator fully permitted and able to achieve 99.99 percent destruction efficiency.

[3] This means dry cleaners' compliance costs would be close to 100 times the average RCRA compliance cost of $90/metric ton, as recently estimated by the Office of Technology and Assessment. (Attachment D.)

problems exist, the nature of those problems, and which wastes should be prohibited from land disposal. EPA's regulatory power should also include authority to relax a land disposal prohibition where a particular solid waste mixture contains small absolute quantities of a banned material and does not present the dangers to which such a prohibition would be addressed.

The regulatory approach we urge would go far towards guaranteeing that arbitrary decisions with severe adverse consequences are not made. It is certainly possible that EPA would decide, after thorough study, that measures that would cripple many small businesses, such as those proposed in H.R. 2867, were nevertheless in the national interest of reducing hazardous wastes disposal problems. At least then, however, we would know that such measures were necessary and unavoidable. The same cannot be said of H.R. 2867. Accordingly, we urge the committee to take all steps possible to avoid rashly jeopardizing the drycleaning and laundry industry and adopt the regulatory approach discussed above.

28-533 O - 84 - 5

ATTACHMENT A

EPA BACKGROUND INFORMATION ON PRICE SENSITIVITY ON DRYCLEANING INDUSTRY

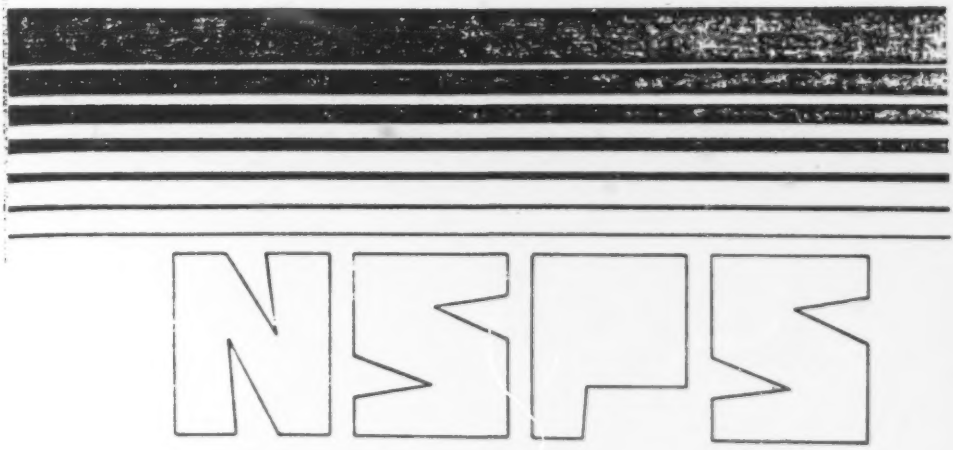
United States Environmental Protection Agency | Office of Air Quality Planning and Standards Research Triangle Park NC 27711 | EPA 450 3-79 029a August 1980

Air

EPA

Perchloroethylene Dry Cleaners - Background Information for Proposed Standards

Draft EIS



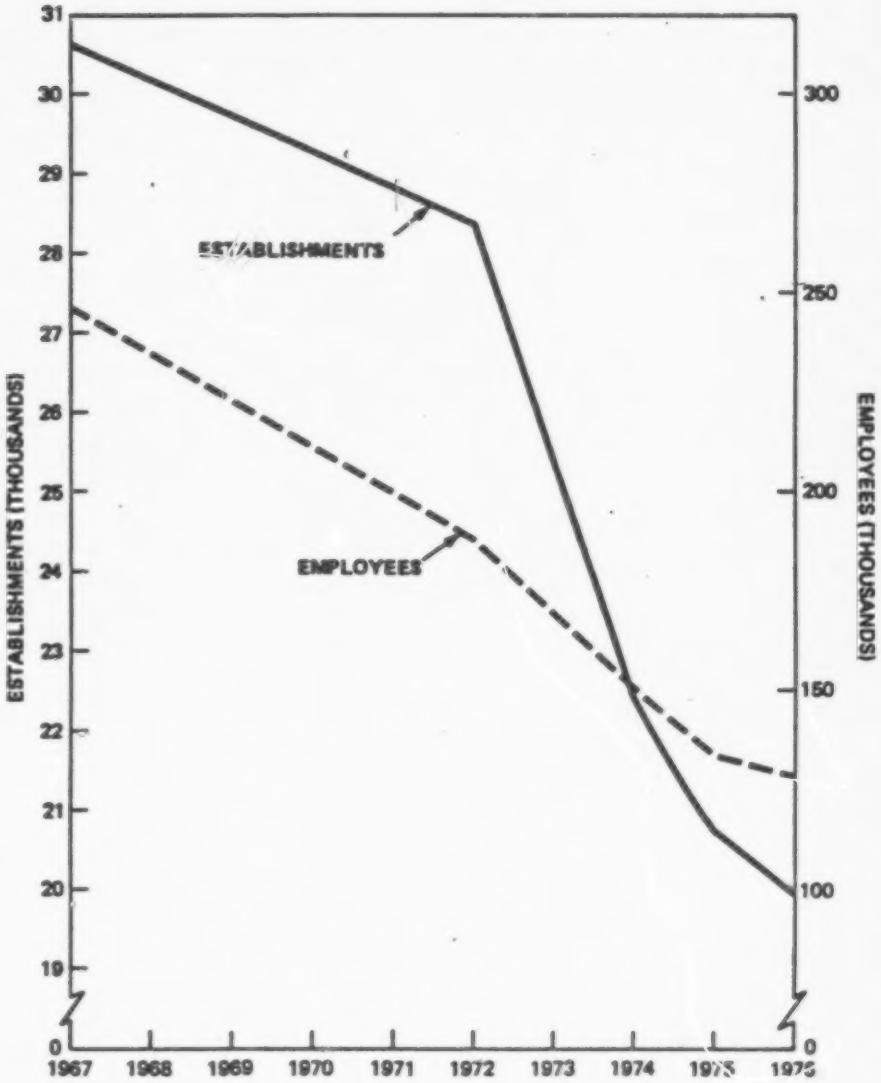
8.1.3.2 *The commercial sector.* Table 8-4, plotted in figure 8-2, shows that the number of establishments and of employees has been falling since 1967. The drop shows some indication of slowing by 1976. The trend can be explained partly by the use of larger capacity dry cleaning machines. Also, the years depicted cover a period during which washable synthetic fabrics were popular.

The demand for dry cleaning services, whether coin-op or commercial, depends on a number of factors. First, because dry cleaning is more a luxury or convenience than a necessity, demand for it will be affected by general economic conditions. When incomes or purchasing power declines, consumers will hand wash where possible and dry clean less often. In addition, it is generally the more expensive garments that require dry cleaning, and fewer of these are sold in bad times.

Clothing styles also affect demand for dry cleaning. During the past several years, a resurgence of natural fabrics such as wool, silk, and fine cottons has occurred. Even "designer" blue jeans are being dry cleaned to prevent fading and shrinkage. This trend is expected to increase dry cleaning demand in both the coin-op and commercial sectors (Gill, Ward, April 26, 1979) (Fisher, William, April 26, 1979).

The likelihood of consumers switching from commercial dry cleaning to less expensive coin-op dry cleaning during a recession is difficult to assess on a historical basis. The recession of the early 1970's coincided with the popularity of washable synthetic fabrics. As a result, dry cleaning revenues dropped in both sectors because of both factors. The effect of a recession alone cannot be measured. There is no evidence to suggest whether switching would result should a recession occur while natural fiber fabrics were prevalent. Industry sources in both sectors indicate, however, that it is their impression that such switching is unlikely (Gill, Ward, April 26, 1979) (Fisher, William, April 26, 1979).

Because both the economy and fashions are difficult to predict, no definitive growth rate can be attached to the commercial sector. It is relatively safe to assume that there will be no dramatic surge in number of establishments, employees or total receipts in the next 5 to 10 years.



SOURCE: SEE TABLE 8-4.

Figure 8-2. Trends in number of establishments and employees for SIC 7216 (dry cleaning plants, except rug cleaners).

8.4.2.1.2 *Coin-op sector.* As table 8-22 shows, the capital investment in dry cleaning equipment for a coin-op plant with two dry cleaning machines is about $12,000 (Clement, Bob, March 22, 1979). Total annual revenues for the coin-op plant averages $23,810, with about $7,500, or 31 percent of the total attributable to dry cleaning services (Gill, Ward, January 1979). Although this figure is lower than that based on throughput, it is used so as not to understate the economic impacts. Thus, while dry cleaning may be an important source of revenue to the coin-op plant, it is clear that the majority of plant revenues accrue from laundering services. The before-tax profit rate is estimated at 20 percent, based on conversations with industry representatives (Gill, Ward, January 1979). After tax profit margin (including owner's salary) is 15.8 percent. In this way, total annual plant profits before tax were estimated at $4,762 and the after-tax profit from dry cleaning was estimated as $1,185.

8.4.2.1.3 *Commercial sector.* The capital investment in dry cleaning plant and equipment for a commercial facility with an 11 kg machine is estimated at $54,900. This is derived from a 1976 value of $75,000 which is adjusted for plant size (TRW, May 7, 1976). Dry cleaning revenues for this model plant are estimated by multiplying the annual throughput (13,475 kg) by average price ($3.02/kg), yielding $40,695. This is taken to be 85 percent of total annual revenues for the plant, (Fisher, William, January 23, 1979; Census, 1972) which are estimated at $47,876. In the commercial sector, the dry cleaning service is the most important contributor to plant revenues and profits.

Industry sources indicate that pre-tax profit margins in the commercial sector average 3 percent with a range of 0 to 6 percent of sales (Karash, Susan, September 17, 1979). Although this value is lower than figures prepared by Robert Morris Associates and Bureau of Census, it is reasonable since it reflects profit margin before tax but after owners' salary has been subtracted. It is important to recall the nature of the industry. Many commercial dry cleaners are family run businesses. The principal goal of operations would be providing a livelihood and income for various family members. The business is often entered into to provide stable employment and reasonable income rather than high after-tax profits. Using the average pre-tax margin of 3 percent, plant profits are $1,436 before tax and $1,134 after tax with $977 of the after tax profit attributable to dry cleaning.

TABLE 8-22.—MODEL PLANT FINANCIAL PROFILE

[1978 dollars]

	Coin-op	Commercial		Industrial
		11 kg	23 kg	
Plant capital (dollars) [1]	12,000	54,900	90,200	394,000
Annual revenues (dollars per year) [2]	23,810	47,876	100,104	4,965,353
Dry cleaning revenues (dollars per year)	7,500	40,695	85,089	844,100
Net profit margin before taxes (percent)	20	[4] 3	[4] 3	[4] 6
Total before tax profit (dollars per year) [3]	4,762	1,436	3,003	297,921
Average tax rate (percent)	21	21	21	39
Total profit after tax (dollars per year) [3]	3,762	1,134	2,372	181,732
After tax profit margin (percent)	[5] 15.8	2.4	2.4	3.7
Dry cleaning after tax profit (dollars per year)	1,185	977	2,042	31,232

[1] Initial investment in dry cleaning portion of plant.
[2] Revenues from all plant operations.
[3] Net profit from all operations.
[4] Ranges in pre-tax profit margin: commercial plants 0 to 6 percent of sales, industrial 3 to 12 percent of sales.
[5] Includes owner's salary—commercial and industrial after tax profit margins are after owner's salary is deducted.

The second model plant for the commercial sector utilizes a 23 kg machine. Capital investment for the dry cleaning portion of the plant is approximately $90,200. Revenues were derived as described for the 11 kg machine group. Dry cleaning revenues in this group are $85,089 per year and total plant revenues are $100,104. The after-tax profit rate is 2.4 percent resulting in estimates of a total annual profit of $2,372 after taxes, which includes a dry cleaning profit of $2,042.

8.4.2.1.4 *Industrial sector.* Capital investment in dry cleaning in the industrial sector is estimated as $394,000. Annual dry cleaning revenues are estimated by multiplying throughput 468,950 kg by an average price of $1.80/kg. This yields annual dry cleaning revenues of $844,100. This represents about 17 percent of total revenues for the plant. In the industrial sector, other services, such as linen supply,

garment rental, etc., account for a significant proportion of total plant revenues. The pre-tax profit margin in this sector average 6 percent with a range of 3 to 12 percent (Karash, Susan, September 17, 1979). With an average tax rate of 39 percent the after-tax profit margin averages 3.7 percent. After tax profits for the plant average $181,732 of which $31,232 is from dry cleaning operations.

8.4.2.2 *Competition and pricing.* The extent to which the costs of emission controls can be passed on through increased consumer prices will depend largely on price sensitivity. Whether these costs will be borne by the dry cleaner or by the consumer will depend on the price elasticity of demand for the dry cleaning industry. Price elasticity of demand is defined as the percentage change in quantity demanded, divided by the percentage change in price.

Since price levels are known, price elasticity can be calculated using sales data to approximate demand. Changes in the consumer price index for dry cleaning services were compared with throughput figures which were derived from revenues. Price increases cannot be accomplished without hurting revenues.

In addition, it would not be feasible for new plants to charge higher prices than those prevailing in a community for comparable dry cleaning services. New plants would not attract customers if their prices were noticeably higher. This is another constraint which restricts new plants from passing through costs. Of course, new plants in new communities without any dry cleaning service would not have this competitive pressure and might be able to pass through costs. In most cases, however, price increases would be strictly limited by local competition.

8.4.3 ECONOMIC EFFECTS ON NEW AND MODIFIED/RECONSTRUCTED FACILITIES

8.4.3.1 *Introduction.* New and modified/reconstructed facilities are treated together in this analysis for several reasons. As shown in section 8.2, the control costs for modified/reconstructed facilities are quite similar to those for new plants. For this reason, it is likely that the regulatory requirements would influence investors in new plants and owners with modification plans in a similar way. The owner of a plant considering major modifications would go through an analysis similar to that of a new investor. The effects on profitability and return on investment would be as shown below. In addition, the estimate of new sources, which is presented in section 8.1, includes sales for both new and replacement facilities. There is no evidence from which to determine the proportions of new and modified/reconstructed plants within this total. Thus, separate analysis would be complicated and subjective. The aggregate figures presented in section 8.2.5 include costs incurred by both new and modified/reconstructed facilities.

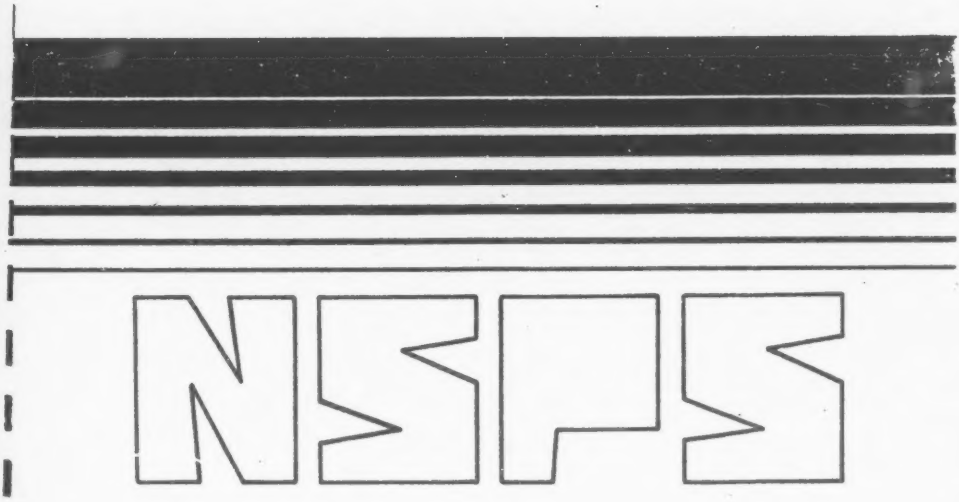
Table 8–23 provides a summary of the control technologies and costs for option 1 and option 2. Capital costs and annualized costs as shown in section 8.2 are reviewed. Capital requirements are shown as a percent of dry cleaning plant investment. Annualized costs are adjusted for taxes. These adjusted annualized costs will be used throughout the discussion of plant profitability and ROI.

United States Environmental Protection Agency
Office of Air Quality Planning and Standards Research Triangle Park NC 27711
EPA-450/3-82-013a
NOVEMBER 1982
Air

EPA

Petroleum Dry Cleaners - Background Information for Proposed Standards

Draft EIS



Two Census Bureau classifications are most representative of petroleum dry cleaners. The commercial dry cleaning sector is represented by SIC 7216 and the industrial cleaning sector by SIC 7218. Again, it is necessary to note that some operations within each classification include non-dry cleaning or non-petroleum dry cleaning operations; some petroleum dry cleaning also takes place in other sectors. In particular, the linen supply industry (SIC 7213) has diversified to the point where it shares many of the characteristics of industrial cleaning and includes many petroleum dry cleaning facilities (Siu, 1980).

9.1.1.1 *Commercial sector.* As noted, in 1981, there were approximately 25,000 commercial dry cleaners in the U.S. (Woolsey, 1980). Of these, approximately 6,000 use petroleum solvent (Woolsey, 1980).

The commercial dry cleaning industry has had periods of growth and consolidation, as shown in Table 9-2. Using SIC 7216 as a proxy for the commercial sector, the number of plants in SIC 7216 increased from 26,000 in 1954 to 32,000 in 1963 and dropped recently to 22,000. Demand for dry cleaning dropped in real terms during the mid-1970's, in large part because the public adopted easy-care polyester garments in lieu of garments made of fabrics needing dry cleaning.

Since the late 1970's, however, dry cleaning demand has recovered slightly and reached a plateau. Little or no real growth is projected for the near future. Profitability has recovered to a point of general stability; many of the less well-managed firms already have left the industry (Woolsey, 1980). Unexpected changes in consumer fashions, income, leisure time, work patterns for women, and population growth could influence future revenues (Fisher, 1980b).

Most dry cleaners are small businesses. Family or sole proprietor businesses are common. More than half the commercial dry cleaners employ fewer than five employees (see table 9-3).

TABLE 9-2.—PLANT AND REVENUE TRENDS IN THE COMMERCIAL SECTOR OF THE DRY CLEANING INDUSTRY (SIC 7216)

[Revenues in millions of first quarter 1981 dollars]

Year	Number of plants	Revenues
1954 [1]	26,287	3,531
1963 [2]	31,722	4,086
1967 [3]	30,625	4,882
1972 [4]	28,422	3,765
1977 [5]	21,868	2,796

[1] U.S. Bureau of the Census, 1957.
[2] U.S. Bureau of the Census, 1966.
[3] U.S. Bureau of the Census, 1972.
[4] U.S. Bureau of the Census, 1975.
[5] U.S. Bureau of the Census, 1980a.

TABLE 9-3.—DISTRIBUTION OF COMMERCIAL DRYCLEANERS (SIC 7216) BY NUMBER OF EMPLOYEES, 1977 [1]

Number of employees per plant	Number of plants
0 to 4	11,272
5 to 9	5,627
10 to 19	2,458
20 to 49	741
50 to 99	97
100 or more	23
All sizes	[2] 21,868

[1] U.S. Bureau of the Census, 1980a.
[2] Numbers do not sum because not all plants in SIC 7216 are included in the size distribution.

ATTACHMENT B

IFI TABLES REGARDING HAZARDOUS WASTE PRODUCTION OF RETAIL DRYCLEANING PLANTS; EXCERPTS FROM 1977 CENSUS OF SERVICE INDUSTRIES

DRYCLEANING PLANT SIZES WHICH WOULD PRODUCE 100 KG. OF HAZARDOUS WASTE PER MONTH [1]

Waste source	Estimated percent of plants (percent)	Cleaning volume producing 100 kg. hazardous waste/month [2] (pounds per week)
Perc plants:		
Standard cartridge still (clothes)	45	890
Adsorptive cartridge	15	1,410
Regenerative filter and cooler	15	1,210
Petroleum plants:		
Standard cartridge and still	10	1,130
Adsorptive cartridge	7	1,540
Standard powder filter and still	7	2,309
Total	[3] 99	

[1] Average cleaning volume in a SIC 7216 drycleaning plant is in the range of 1400 to 1600 pounds of clothes per week. Table A demonstrates the levels of cleaning in the various types of drycleaning plants that would produce 100 kg/month and thus lead to added disposal costs if the small generator exemption level were reduced.

[2] Derived from column 3 of table B.

[3] The 1 percent of plants using fluorocarbon 113 as a solvent are excluded.

RATES OF HAZARDOUS WASTE PRODUCTION—COMMERCIAL DRYCLEANING PLANTS (SIC 7216)

Waste source	Estimated percent of plants	Pounds of waste per 1,000 pounds cleaned	Waste [2] composition—percent inert waste
Perc plants:			
Standard cartridge and still	45	57	47
Adsorptive cartridge	15	36	56
Regenerative filter and cooler	15	42	79
Petroleum:			
Standard cartridge and still	10	45	60
Adsorptive cartridge	7	33	61
Standard powder filter and still	7	22	57
Total	[1] 99		

[1] Approximately 1 percent of national cleaning plants use a third solvent.

[2] These figures represent the waste composition in the absence of new technology to reduce the hazardous constituent in drycleaning and laundry wastes. (See Attachment F.)

SC77-S-3
Issued March 1981

Subject Series

Laundry, Cleaning, and Garment Services

U.S. Department of Commerce
Malcolm Baldrige, Secretary
William A. Cox,
Acting Chief Economist

BUREAU OF THE CENSUS
Daniel B. Levine,
Acting Director

Table 1. United States and States by Kind of Business: 1977

(For meaning of abbreviations and symbols, see introductory text)

SIC code	Kind of business	All establishments				Establishments with payroll				
				Unincorporated businesses						
		Number	Receipts ($1,000)	Sole proprietorships (number)	Partnerships (number)	Number	Receipts ($1,000)	Payroll entire year ($1,000)	Payroll first quarter ($1,000)	Paid employees for week including March 12 (number)
	United States	75,359	4,028,567	49,821	7,895	44,340	4,224,24.	3,257,888	234,768	340,967
7215	Coin-operated laundries and dry cleaning	24,289	1,088,188	16,819	3,054	13,446	844,914	146,962	43,132	37,324
7215 pt.	Coin-operated laundries and dry-cleaning stores	**	**	**	**	11,894	610,729	123,819	34,587	33,288
7215 pt.	Coin-operated laundry machine routes	**	**	**	**	332	234,194	43,143	10,365	4,040
721 ex. 7215	Other laundry, cleaning, and garment services	51,093	3,744,490	33,012	4,841	34,103	3,421,247	3,120,866	200,616	323,667
7211	Power laundries, family and commercial	**	**	**	**	2,433	612,833	299,154	68,566	47,873
7216	Dry-cleaning plants, except rug cleaning	**	**	**	**	21,868	1,893,772	718,145	173,367	134,945
7212	Garment pressing and agents for laundries and dry cleaners	**	**	**	**	2,130	130,922	40,232	10,248	7,748
7218	Industrial launderers	**	**	**	**	1,034	1,147,277	417,409	128,278	47,013
7213	Linen supply	**	**	**	**	1,281	1,248,235	498,474	117,353	61,338
7214	Diaper service	**	**	**	**	173	68,554	26,054	6,128	3,220
7217	Carpet and upholstery cleaning	**	**	**	**	3,291	278,929	93,348	21,319	15,081
7219	Other laundry and garment services, n.e.c.	**	**	**	**	1,743	98,886	33,830	8,871	6,411
	Alabama	1,246	93,777	898	118	813	89,276	32,511	8,217	5,644
7215	Coin-operated laundries and dry cleaning	338	14,004	423	53	348	9,734	2,004	430	584
721 ex. 7215	Other laundry, cleaning, and garment services	728	81,683	475	63	571	79,540	30,507	7,787	5,062
7211	Power laundries, family and commercial	**	**	**	**	28	3,484	2,360	571	436
7216	Dry-cleaning plants, except rug cleaning	**	**	**	**	431	29,534	11,944	2,930	2,470
7212	Garment pressing and agents for laundries and dry cleaners	**	**	**	**	23	(D)	(D)	(D)	(D)
7218	Industrial launderers	**	**	**	**	23	21,421	7,894	1,941	1,013
7213	Linen supply	**	**	**	**	13	19,989	7,437	1,793	894
7217	Carpet and upholstery cleaning	**	**	**	**	37	(D)	(D)	(D)	(D)
7214, 9	Other laundry and garment services, including diaper	**	**	**	**	22	(D)	(D)	(D)	(D)
	Alaska	88	13,886	48	10	61	12,183	4,486	1,085	693
7215	Coin-operated laundries and dry cleaning	36	(D)	26	3	22	(D)	(D)	(D)	(D)
721 ex. 7215	Other laundry, cleaning, and garment services	52	(D)	34	7	39	(D)	(D)	(D)	(D)
7211	Power laundries, family and commercial	**	**	**	**	4	(D)	(D)	(D)	(D)
7216	Dry-cleaning plants, except rug cleaning	**	**	**	**	23	7,200	3,214	763	284
7212	Garment pressing and agents for laundries and dry cleaners	**	**	**	**	4	271	78	15	13
7218	Industrial launderers	**	**	**	**	-	-	-	-	-
7213	Linen supply	**	**	**	**	-	-	-	-	-
7217	Carpet and upholstery cleaning	**	**	**	**	2	(D)	(D)	(D)	(D)
7214, 9	Other laundry and garment services, including diaper	**	**	**	**	6	(D)	(D)	(D)	(D)
	Arizona	679	67,810	440	78	421	62,881	22,657	5,750	3,821
7215	Coin-operated laundries and dry cleaning	273	12,133	213	24	132	9,130	1,570	451	389
721 ex. 7215	Other laundry, cleaning, and garment services	406	55,677	233	44	289	53,361	21,087	5,299	3,432
7211	Power laundries, family and commercial	**	**	**	**	16	5,861	2,678	668	385
7216	Dry-cleaning plants, except rug cleaning	**	**	**	**	100	16,816	6,367	1,571	1,272
7212	Garment pressing and agents for laundries and dry cleaners	**	**	**	**	9	544	137	32	34
7218	Industrial launderers	**	**	**	**	11	9,782	3,820	960	491
7213	Linen supply	**	**	**	**	17	15,753	6,379	1,708	990
7217	Carpet and upholstery cleaning	**	**	**	**	33	2,527	633	166	123
7214, 9	Other laundry and garment services, including diaper	**	**	**	**	21	2,278	853	192	137
	Arkansas	797	44,233	602	74	473	(D)	(D)	(D)	(D)
7215	Coin-operated laundries and dry cleaning	333	8,100	275	31	158	5,226	999	313	306
721 ex. 7215	Other laundry, cleaning, and garment services	462	36,134	328	43	315	(D)	(D)	(D)	(D)
7211	Power laundries, family and commercial	**	**	**	**	22	2,997	1,292	298	298
7216	Dry-cleaning plants, except rug cleaning	**	**	**	**	227	14,122	5,527	1,375	1,287
7212	Garment pressing and agents for laundries and dry cleaners	**	**	**	**	11	770	284	74	61
7218	Industrial launderers	**	**	**	**	13	10,823	3,917	857	489
7213	Linen supply	**	**	**	**	14	6,344	2,409	551	353
7217	Carpet and upholstery cleaning	**	**	**	**	18	(D)	(D)	(D)	(D)
7214, 9	Other laundry and garment services, including diaper	**	**	**	**	8	(D)	(D)	(D)	(D)

Table 4. Major Sources of Receipts, by Receipts Size of Establishments, for the United States: 1977

(For meaning of abbreviations and symbols, see introductory text. Data are shown only for establishments with payroll)

Kind of business and receipts size of establishment	Establishments (number)	Receipts, by source									Receipts of establishments reporting source of receipts, as percent of total receipts
		Total ($1,000)	Coin-operated laundry and dry-cleaning work ($1,000)	Dry-cleaning work ($1,000)	Industrial laundry services ($1,000)	Linen supply services ($1,000)	Diaper rental ($1,000)	Other laundry work ($1,000)	Carpet and upholstery cleaning ($1,000)	All other ($1,000)	
Laundries, cleaning, and other garment services	46,340	6,385,363	884,311	1,830,340	1,221,905	1,134,280	78,849	771,911	238,221	194,340	C
Establishments operated entire year	41,945	6,087,884	798,116	1,730,284	1,171,612	1,087,840	77,093	733,694	229,736	182,306	C
With annual receipts of—											
$1,000,000 or more	1,092	2,279,406	148,180	73,386	983,287	813,230	28,330	286,239	15,236	43,211	B
$500,000 to $999,999	1,082	708,881	36,435	169,383	170,996	189,249	29,172	141,664	22,872	16,190	C
$250,000 to $499,999	1,139	443,166	29,630	139,066	48,788	55,945	5,884	103,738	24,038	28,113	D
$100,000 to $249,999	7,626	1,196,631	137,203	684,459	40,360	30,133	7,238	176,788	71,181	36,958	B
$50,000 to $99,999	11,989	831,437	388,357	470,791	6,092	4,381	1,163	49,239	30,989	23,405	D
$25,000 to $49,999	9,286	338,744	139,949	169,189	1,830	339	708	23,336	21,661	12,391	D
Less than $25,000	9,947	188,360	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Establishments not operated entire year	4,404	318,399	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Coin-operated laundry machine owners	332	234,196	230,844	189	-	11	-	222	-	3,014	B
Establishments operated entire year	301	227,280	222,844	189	-	11	-	204	-	3,008	B
With annual receipts of—											
$1,000,000 or more	37	131,130	148,119	-	-	-	-	92	-	2,938	B
$250,000 to $999,999	39	38,240	37,348	-	-	-	-	-	-	362	C
$100,000 to $249,999	31	19,388	19,284	-	-	-	-	-	-	139	D
Less than $100,000	194	38,477	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Establishments not operated entire year	31	6,887	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Power laundries, family and commercial	2,432	612,838	11,947	88,147	17,213	23,477	1,534	463,419	2,471	7,663	C
Establishments operated entire year	2,251	586,239	11,310	80,686	13,749	23,197	1,534	444,796	2,471	7,267	C
With annual receipts of—											
$1,000,000 or more	106	280,860	1,937	26,388	6,393	7,447	797	198,133	1,649	3,796	B
$500,000 to $999,999	188	130,691	1,384	17,989	3,933	9,845	78	92,312	223	1,889	C
$250,000 to $499,999	316	82,816	1,866	12,130	2,674	4,843	381	68,334	146	306	C
$100,000 to $249,999	674	136,913	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Less than $100,000	1,868	34,738	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	C
Establishments not operated entire year	181	26,632	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Dry-cleaning plants, except rug cleaning	21,868	1,893,772	33,873	1,418,397	14,244	6,163	40	161,833	8,913	32,889	D
Establishments operated entire year	20,315	1,784,823	49,770	1,328,341	14,223	5,903	40	154,384	8,394	31,376	D
With annual receipts of—											
$1,000,000 or more	41	46,089	201	43,374	2,253	1,679	-	11,863	1,803	2,203	D
$500,000 to $999,999	193	138,313	3,876	94,383	3,284	1,394	-	19,930	932	2,376	D
$250,000 to $499,999	488	153,264	4,464	116,143	2,123	772	-	28,983	1,617	6,960	D
$100,000 to $249,999	4,636	795,442	22,214	681,173	2,545	1,264	40	63,298	3,347	12,290	D
$50,000 to $99,999	6,946	488,837	13,914	37,748	637	788	-	38,381	948	5,541	D
$25,000 to $49,999	6,374	171,350	3,376	438,665	195	73	-	7,477	288	1,276	D
Less than $25,000	3,627	72,136	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Establishments not operated entire year	1,630	111,139	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Industrial laundries	1,084	1,147,277	2,147	12,344	973,039	82,929	1,497	24,782	3,951	48,448	B
Establishments operated entire year	1,084	1,114,323	2,039	11,489	958,268	80,837	1,497	21,134	3,393	43,874	B
With annual receipts of—											
$1,000,000 or more	388	871,396	560	5,171	747,973	66,367	1,036	11,438	3,284	33,320	B
$500,000 to $999,999	217	141,867	437	2,478	137,517	10,383	273	3,135	1	5,641	C
$250,000 to $499,999	195	41,682	267	1,835	32,317	2,436	-	2,915	43	1,667	C
$100,000 to $249,999	186	32,982	678	1,736	26,377	1,383	117	1,411	61	999	C
$50,000 to $99,999	63	4,688	23	188	4,861	214	49	113	3	37	C
Less than $25,000	45	1,988	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Establishments not operated entire year	50	32,732	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Linen supply	1,301	1,248,223	6,190	19,273	136,262	1,010,699	2,836	53,277	923	18,364	C
Establishments operated entire year	1,289	1,230,769	6,138	19,087	135,007	986,373	2,842	52,036	923	18,231	B
With annual receipts of—											
$1,000,000 or more	396	930,988	1,344	10,834	110,683	758,641	1,990	38,131	770	13,989	B
$500,000 to $999,999	344	177,030	1,366	3,481	13,228	143,230	612	11,471	79	1,231	B
$250,000 to $499,999	181	68,889	1,463	3,988	4,731	47,834	189	4,217	31	416	D
Less than $250,000	488	53,860	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E
Establishments not operated entire year	92	27,466	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	(Y)	E

Coverage symbols: A = 90 percent or more. B = 80 to 89 percent. C = 70 to 79 percent. D = 60 to 69 percent.
E = Less than 60 percent.

ATTACHMENT C

IFI 1980 OPERATING COSTS SURVEY

Results of IFI's Survey of

by Zoe Faig

Now you can compare our costs to the averages obtained from package plants, drycleaning plants, and combination laundry-drycleaning plants throughout the USA. Our survey, which appeared in the June issue, yielded three classifications, to compile significant average cost percentages.

The package plant classification can apply to a vast majority of the drycleaning plants in which the work is being done on the premises. It will consist principally of over-the-counter sales, done on a cash basis. Most plants in this category use outside accounting firms who detail the expense classifications in a manner similar to the format used to report the 1980 percentages.

The package plant report is divided into four yearly sales volume groups, since sales volume will influence the percentage of total wages and salaries in each group.

Supply percentages will be influenced by the purchasing advantages of

1980 PACKAGE PLANTS

Annual Sales Volume	$50,000-75,000	$ 76,000-100,000	$100,000-150,000	over $150,000	Your Figures
Item Price	4.33	3.97	4.08	4.21	
Average Hourly Wage	4.08	3.99	4.10	4.23	
Expenses	%	%	%	%	%
(1) Total Wages & Salaries (before deductions)	32.90	28.77	27.53	32.51	
(2) Outside Work (not processed at plant)	10.53	6.61	7.26	4.93	
(3) Total Supply Cost	8.20	9.76	10.93	7.24	
(4) Utility Cost-Fuel (gas & oil)	2.70	2.39	2.32	2.08	
(5) Utility Cost-Electricity	2.10	1.86	1.80	1.52	
(6) Utility Cost-Water & Sewage	1.20	1.06	1.03	.02	
(7) Depreciation	3.20	5.68	4.51	2.88	
(8) Rent or Bldg. Overhead	9.28	6.44	4.97	4.94	
(9) Repairs & Maint. (parts & labor)	2.36	2.32	2.88	1.87	
(10) Taxes Payroll (FICA-Unemployment)	2.02	3.15	1.99	3.12	
(11) Advertising (special promotions, ads)	2.36	1.48	2.15	1.95	
(12) Claims (damaged or lost goods)	.12	.10	.49	.41	
(13) Insurance (liability, fire, health & workmen's comp.)	3.72	3.19	2.55	2.89	
(14) Office Expense (forms, telephone)	2.26	1.40	.88	1.19	
(15) Administrative Expense (legal, accounting, travel, dues, subscriptions)	2.06	1.64	1.72	2.10	
(16) Interest & Bank Charges	2.65	3.08	1.84	1.49	
(17) Miscellaneous (expense not otherwise classified)	2.07	3.16	2.90	3.01	
(18) Total Expenses	89.73	82.09	77.75	74.15	
(19) Profit	10.27	17.91	22.25	25.85	
(20) Owners Time (if not included in wages and salaries	9.13	14.21	18.54	21.65	

28-533 O - 84 - 6

980 Operating Costs

tantity purchases. Larger consumers of fuel and electricity usually enjoy a lower rate structure for utilities.

Most of the package plants are not incorporated businesses, thus, the owner's time is shown to determine the true profitabilty of the business when owner's salary is deducted from the profit percentage.

SUMMARY OF PACKAGE PLANT PERCENTAGES

Price structures have kept pace with inflation when compared to the 1979 base prices. This fact, plus better control of labor, supply, and utility costs have produced percentages which are a definite improvement over 1979 percentages. The 50-75,000 sales group is the only group which has not shown any improvement in percentages reported.

Interest and bank charges have risen in all groups which is to be expected under present economic conditions.

PLANTS USING UNIFORM CLASSIFICATION OF ACCOUNTS

The 1980 cost percentages include two segments of the fabricare industry under this group. The combination laundry-drycleaning plant and the larger plant doing only drycleaning are represented by the cost survey.

Laundry-Drycleaning Plants

The laundry-drycleaning plant percentages include plants having a yearly sales volume ranging from 200,000 to 2,000,000 dollars per year. Almost all plants were doing three classifications of work—laundry (including commercial), drycleaning retail and a percentage of rental work. The rental percentage includes linen supply and also industrial rental.

The sales are also divided into procurement categories by percentage. Considerable amount of the sales from these plants involve the operation of vehicles. It is interesting to note that 7.91¢ of every dollar sold on the route will be expensed to the operation of the vehicle. This cost has continually increased during the last few years due to the variable fixed costs of operating the vehicle. The areas of productive labor, supply costs, and utility costs have been controlled by improved production methods and better management techniques.

Claim adjustments have held to a reasonable percentage in this category, however, a large part of the work mix has switched to commercial and rental work which results in little or no claim adjustments.

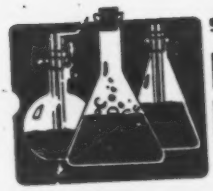
When studying the percentages, bear in mind the sales and distribution percentage since some apply to route work and others to over-the-counter sales.

Total productive cost percentage, total sales and distribution costs, plus

SURVEY, *see p. 6*

PLANTS USING UNIFORM CLASSIFICATION OF ACCOUNTS

Sales by Classification	Combination Laundry & Drycleaning %	Drycleaning Plants $4.47 Average Base Price %	Your Figure %
Laundry Sales	31.07		
Drycleaning Sales	41.60	100.00	
Rental Items	27.33		
Total	**100.00**	**100.00**	
Route	47.37	30.23	
Branch Stores	23.34	40.47	
Plant Store	29.29	29.30	
Total	**100.00**	**100.00**	
Productive Labor (Laundry)	23.44		
Productive Labor (Drycleaning)	24.70	26.26	
Productive Supplies (Laundry)	6.55		
Productive Supplies (Drycleaning	9.20	8.63	
Total Productive Labor	23.00	26.26	
Total Productive Supplies	7.93	8.63	
Rental Consumption	9.08	0.00	
Direct Power Costs	5.21	4.85	
Bldg. Overhead Costs	2.38	5.12	
Machinery Overhead Costs	3.40	4.52	
Indirect Costs	7.67	6.41	
Total Productive Costs	**58.67**	**55.79**	
Wages & Commissions (to route sales)	15.17	19.65	
Delivery Equipment (to route sales)	7.91	6.92	
Store Wages & Expense (to store sales)	14.33	21.43	
Sales Promotion (to total sales)	2.05	3.14	
Claim Adjustments (to total sales)	.53	.64	
Total Sales & Distribution	**20.19**	**18.78**	
Office Salaries	5.23	5.04	
Executive Salaries	7.05	8.71	
Other Expense	4.02	4.16	
Total Office & Administrative Expense	**16.30**	**17.91**	
Total Expense (productive , sales, & administrative)	**95.16**	**92.48**	
Net Profit Before Federal Taxes	**4.84**	**7.52**	



Research Briefs

Research Department Reassigns Duties by Cal Lloyd

The recent death of John Woolsey has made it necessary to reassign some duties in the Research Department of IFI.

Solvent Analysis and CPT

Solvent Analysis and Cleaning Performance Tests for drycleaning are now being supervised by Ivan Andrasik. Andrasik has been a Research Chemist with NID and IFI for 12 years. He has worked in the Solvent Analysis lab at various times and he has tested many drycleaning detergents for their cleaning performance.

In the field of textiles, he has performed hundreds of fiber identification tests on the infra-red Spectrophotometer. He frequently uses the textile testing procedures of the American Association of Textile Chemists and Colorists in his research work at IFI and in work for textile companies.

Andrasik has been operating IFI's Gas Chromatograph (GC) for several years and has made many perchloroethylene vapor concentration determinations using the GC in conjunction with the OSHA approved "Sipin Pump" method. More recently, he compared the Sipin Pump method with the DuPont Pro-Tek Badge method for perc vapor determination. Since proving the Pro-Tek Badge method is accurate, he has run several hundred tests on badges exposed in member drycleaning plants.

If you have questions about your Solvent Analysis reports or your CPT's, write to Ivan Andrasik. To place orders for these services or inquire about these services, call or write Elke Cary.

Laundry Test Pieces

Cindi Busler is now supervising the Laundry Test Piece service. She should be contacted if you have any questions about your test results on LTP's.

Busler was the Applied Science instructor at NID for 2½-3 years before the IFI Education Department was transferred to Joliet. She has been working in the IFI Research Department as a Research Chemist for the past 4 years and also does some instruction in the General Drycleaning Course and in the Spotting Course, as well as some work on IFI's Correspondence Courses.

Busler supervised the recent project comparing Perc and Valclene solvents, and the fellowship study on the Firmair drycleaning machine.

Contact Cindi Busler if you wish to order Laundry Test Pieces or if you have questions about your orders for this service.

Our Pro-Tek® Service Can Help You!

by Ivan Andrasik

The Pro-tek perc vapor monitoring service offered by IFI can be of great benefit to many drycleaners who use perchloroethylene solvent.

As an illustration of the usefulness of this service, let's take a look at the most recent problem faced in one of the California plants.

This quite large plant employed 2 transfer unit perchloroethylene drycleaning machines with a daily volume of over 2,000 lbs. of garments. The first test showed that the drycleaning machine operator was exposed to a very high level of perchloroethylene vapors. When the first monitoring by a Pro-Tek badge shows this type of high exposure level, we usually send another badge to the plant for retesting (sometimes, the badge comes in contact with wet garments during the transfer operation, or some other kind of accidental spill onto the badge occurs during the test). In the case of this plant, even repeated testing showed results well above the current allowed exposure level of 100 ppm (parts per million), specified by OSHA.

Our confidential report contained suggested steps to be taken to improve air quality in this plant. We also recommended that the Pro-Tek test be rerun after management felt that the situation had improved.

That's what they did. Subsequent monitoring of the drycleaning machine operator for perc vapor exposure showed a remarkable improvement. The Time Weighed Average (TWA) level of exposure dropped to a 50 ppm range, which is itself impressive considering the large amount of garments cleaned in the two transfer units.

We would like to point out that this case is not an isolated one, it is just the most recent. As you can see, this service pays its dividends, far more than the actual cost of the test ($30.00 for members). If you are interested in more information on the Pro-Tek Service, feel free to write me: IFI, 12251 Tech Road, Silver Spring, MD 20904. ATTN: Mr. Ivan Andrasik.

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SURVEY, from p. 5

total office and administrative costs will add to total expenses

Drycleaning Plants

It has been some time since IFI has been able to compile cost percentages for this group of plants. The number of returns were sufficient to establish significant percentages for this type of plant.

This group of plants doing yearly sales volumes from 300,000 to 1,200,000 dollars averaged a base price of $4.47. Approximately 70% of their volume was obtained from route service and branch stores.

Production costs in this type plant averaged 3% lower than those of the laundry-drycleaning combinations.

The sales and distribution costs as well as the administrative and office expense compare very closely to the laundry-drycleaning combination.

Bear in mind when comparing to your figures, the survey is reporting averages, so no one should be complacent if his figures are equal to them. They should be better!

ATTACHMENT D

EXCERPT FROM 1983 REPORT OF OFFICE OF TECHNOLOGY AND ASSESSMENT

environmental effects in the long term. It should be stressed that the language of RCRA precludes balancing costs and risks; rather, it places sole emphasis on the protection of public health and the environment.

The cost to assess and clean up an uncontrolled site ranges from several hundred thousand dollars to tens of millions of dollars. For example, the cost to clean up one site in Seymour, Ind., has been estimated at $22.7 million. To clean up four sites in St. Louis, Mich., one company has agreed to spend $38.5 million. Hydrogeologic investigations to define the extent of ground water contamination can cost from $25,000 to $250,000. The average cost for cleaning up and containing contaminated ground water ranges from $5 million to $10 million a site; the cost of totally restoring a badly contaminated aquifer to potable quality could be 10 times the average cost.

To clean up a substantial fraction of the more than 15,000 presently known uncontrolled hazardous waste sites is likely to cost, in public and private spending, a total of $10 billion to $40 billion. This should be compared with the estimated $1.6 billion to be collected under CERCLA by 1985. CERCLA funds are meant to be used for cleaning up uncontrolled sites where no responsible party can be identified, and for advancing funds for cleanup before recovery from responsible parties is made. The cost of cleaning up known sites is not likely to be the end of the expense. Still more uncontrolled sites are being discovered, and probably some are being created by current practices and exemptions.

It is generally acknowledged that, even with the new stricter RCRA regulations in place, eventual releases of hazardous constituents from land disposal facilities are highly probable. Greater use of waste treatment alternatives is, therefore, a major issue, although they too, if not regulated effectively, can release hazardous constituents to the environment. Yet greater use of alternatives to land disposal—treatment, recycling, and especially more investment in waste reduction—could increase industry's near-term costs significantly, perhaps by as much as 50 to 100 percent. But years or decades from now, cleaning up a site from which there are hazardous releases, and compensating victims, might cost 10 to 100 times the additional costs incurred today to prevent releases of hazardous materials.

For example, in the case of Love Canal, it has been estimated that disposal of the waste dumped there decades ago—according to the standards and practices of today—would have cost $2 million (in 1979 dollars)* versus $36 million for remedial action already spent through 1980. Ultimate costs for remedial action are expected to exceed $100 million; in addition about $2 billion in lawsuits have been filed by persons claiming damages.

EPA estimates that the average cost of disposing of hazardous waste in compliance with the new RCRA regulations is about $90 per tonne. The EPA estimate of the cost of cleaning up improperly dumped waste is up to about $2,000 per tonne. In addition, much of the burden of future costs would likely fall on the general public. Costs incurred today by improved management of hazardous waste would be borne, more equitably, by waste generators and by consumers of "hazardous waste-intensive" products.

*This is not to suggest that the technical factors alone were responsible for the Love Canal problems.

ATTACHMENT E

EXCERPTS FROM EPA REPORT ON THE "ECONOMIC IMPACTS OF RCRA APPROACHES TO THE REGULATION OF GENERATORS OF SMALL VOLUMES OF HAZARDOUS WASTES"

II-37

Plant Closure Analysis

Plants would be closure candidates if RCRA compliance costs, when not passed through to customers, would result in a negative profit rate. Based on the above analysis, the economic consultant identified these plants, computed the price increase necessary for the plants to reach a positive profit rate, and assessed the likelihood of plants to increase prices to the levels required.

Three operating characteristics, singly or in combination, provide the environment for a firm to be a closure candidate. These include:

- High compliance costs,
- Low annual sales, and/or
- Low profitability.

The nine industries selected for detailed analysis illustrate these possible conditions:

- Plants in the manufacturing SICs have establishments with waste generation rates up to 5,000 kg/mo. The costs of compliance for the average establishment in the 2,000 to 5,000 kg/mo range is approximately $4,900 compared to $850 for the smallest generators.
- Dry cleaners have generally adequate profit margins but low annual sales.
- Special trade contractors, with low annual sales and low profit margins, are potentially impacted by both.

Recalling the earlier table of the relative distribution of SICs by profits and sales (Table II-3), it is clear that the strongest indicator of closure potential is the level of annual sales. The common characteristic among the industries with sales impacts and/or profitability impacts is low annual sales. The single exception is gasoline service stations (SIC 5541), but even that industry has a relatively large number of establishments with low annual sales, and it is these that are the closure candidates.

Closure potential in the dry cleaning industry results from low sales, despite a profit rate in the top quartile among small volume generators. Photofinishers and contractors

have low profit rates as well as low sales, but there would be closure candidates in these industries even if profit rates were raised to the top quartile.

Closure candidates also exist among small establishments in SIC 3441--fabricated structural steel. Baseline profitability for these establishments is -1.14 percent, indicating that closure candidates exist in the absence of hazardous waste regulations. Compliance with RCRA would lower the median profitability for these establishments even further. Highly localized markets for small establishments and intense foreign competition result in very limited pricing flexibility, and it is doubtful that establishments in this SIC could pass additional costs through to customers. Consequently, closures are likely to result from RCRA requirements, but it is difficult to differentiate these closures from those resulting from the weak financial condition of the industry.

Closures are likely among candidate firms only if the costs of compliance cannot be passed through to customers. Price increases necessary for the median closure candidate firm to avoid closure are 7 to 8 percent. The likelihood that price increases of this magnitude can be realized will vary from industry to industry. In general, since closure candidates requiring 7 to 8 percent increases in price are concentrated among the smallest establishments, compliance with RCRA will improve the competitive position of large establishments. For example, whereas a small establishment will need to raise its prices by 7 to 8 percent in order to maintain a positive profit rate, for a large establishment the same percent increase in prices will translate into an increase in profits of virtually that amount. Thus one effect of RCRA may be to foster concentration among larger firms in the heavily impacted industries.

Demand for special trade contractors follows general economic conditions, and the feasibility of realizing an 8 percent price increase will depend on the condition of the national economy. With a vigorous economy and a high level of housing starts, an 8 percent price increase would not affect demand significantly. In a depressed economy, it is probable that an 8 percent price increase will cause many small contractors to go out of business, at least temporarily. Since there are low barriers to entry and exit in the industry, these contractors may re-enter once economic conditions improve.

Demand for dry cleaning and photoprocessing services is influenced as much by location, convenience, and quality as by price. Both services also depend on general economic conditions in that as economic conditions worsen, individuals and businesses can dispense with them. Thus, price will be only one of a number of important factors influencing demand for these services. In addition to the above, two further factors influence the dry cleaning industry: first, price increases may reinforce an historical trend from commercial to coin-operated dry cleaners; second, the dry cleaning industry is highly energy-intensive and is already facing the prospect of price increases as a result of escalating energy prices.

PROJECTION OF SIC IMPACTS TO NATIONAL IMPACTS

Table II-16 lists the results of the analysis of the percent and number of plants on a national basis that would incur impacts of more than 2 percent of sales and/or negative profitability.

No impacts are anticipated among manufacturing SICs at a zero quantity cutoff as there was an absence of projected impacts among the most vulnerable SICs. It should be recognized that individual plants, in a limited number of cases, may experience higher than expected impacts. This distortion results from varying waste generation rates and, therefore, varying compliance costs among firms with the same sales volumes. Different generation rates may be the result of product or process differences or inefficient hazardous waste management practices. Plants in the latter category may be more capable of adjusting their waste generation rates than plants in the former category.

Among non-manufacturing SICs, impacts are anticipated, based on sales and profits, primarily among establishments with low annual sales volumes. Based on Table II-16, 45 percent of non-manufacturing SICs will have impacts greater than 2 percent of sales. Thirty-two to 40 percent will be closure candidates as a result of compliance costs that are greater than pre-tax profits. Most establishments will be impacted based on both criteria. The maximum impact, based on either criteria, will be 48 percent, or 315,000 establishments.

Table II-16

REGULATORY OPTION: EXEMPTION BY QUANTITY OF WASTE

PROJECTED NATIONAL IMPACTS ON SMALL VOLUME GENERATORS
AT A WASTE QUANTITY EXEMPTION OF 0 kg/mo CUTOFF

			Basis of Impacts			
			Costs Exceed 2 Percent of Sales		Costs Exceed Baseline Profits	
SIC	Description	Total Establishments (thousands)	Percent	Number (thousands)	Percent	Number (thousands)
07	Horticultural Services	18	38	7	8-25	1-5
17	Special Services Contractors	152	61	92	53	80
55	Car Dealers and Service Stations[1]	164	7	12	14	24
72	Personal Services[2]	191	67	128	34-52	65-99
73	Business Services	31	33	10	29-58	9-18
75	Auto Services	66	44	29	32	21[a]
76	Repair Services	24	61	15	42-56	10-13
79	Recreational Services	7	29	2	9	0.6
	Total	653	45	295	32-40	210-260

[1]More service stations will have impacts based on low profits than on low sales.

[2]Among the 191,000 establishments in Personal Services are 120,000 beauty parlors (SICs 723,724) of which 100,000 have impacts greater than 2 percent of sales and 60,000 to 89,000 have costs greater than profits before taxes.

[a]Includes 50 percent of SIC 751 which has negative profits before tax among smaller establishments.

The largest number of potentially affected establishments are in three industry groups:

- Special trade contractors (SIC 17),
- Personal services (SIC 72), and
- Auto services (SICs 55 and 75).

SIC 17 consists of special trade contractors with various specialties. The largest group--53,000--is in SIC 1711, plumbing, heating, and air conditioning. The next largest group--29,000--is in SIC 1721, painting, paperhanging, and decorating. These generators have a higher waste generation rate than the other segments of this industry.

SIC 72 consists of purveyors of various personal services. The largest groups of generators are in SICs 7231 and 7241, beauty parlors and barber shops, respectively, with a combined total of 120,000 generators. Other sectors that have large numbers of generators are SIC 721, laundries, with 44,000 generators, and SIC 7261, funeral services, which has 14,500 generators.

SICs 55 and 75 consist of automotive dealers and repair shops. The largest number of generators--128,000--are in SIC 5541, gasoline service stations. There are 49,000 generators in SIC 753, auto repair shops, and 36,000 generators in SIC 5511, new and used car dealers. Car washes and auto rental establishments have relatively few establishments in this industry.

Several factors will affect the proportion of closure candidates that actually close because they are unable to realize the price increases of 7 to 8 percent that would be necessary for the average firms to have positive profit rates. Among these are:

- Price elasticities,
- Ease of entry and exit, and
- National economic conditions.

In SICs 17 and 72, demand for services is closely tied to national economic conditions, and low capital requirements result in considerable ease of entry and exit among smaller establishments. In a recessionary economy, closures would be extremely likely, at least among the lower 25 percent of establishments in sales. Both incremental RCRA costs and economic conditions would be responsible for closures. In a healthy economy, impacted establishments should be able to realize the necessary 7 to 8 percent price increases.

In SICs 55 and 75, capital investments are greater and sensitivity to economic conditions varies. Closures would be less likely among these establishments, but some closures would take place among low profit establishments.

LIMITS OF THE ANALYSIS

The analysis described above is based on several important assumptions. In addition to the model plant assumption concerning waste correlation, assumptions made for this study concern:

- Cost estimates for fixed and variable costs, and
- Applicability of available financial data.

In the following sections the sensitivity of the analysis to these assumptions will be discussed.

Cost Estimates

Cost estimates for small volume generators have been developed from previous estimates for large volume generators. Limited empirical data for small volume generators are available and estimates used for this study could overstate or understate overall costs. There are several sources of uncertainty:

- Total costs and impacts reported here are dependent in large measure on the population of generators. The number of generators included in this analysis is the total number estimated by the technical contractor to produce potentially hazardous wastes. The actual number of generators may vary for several reasons:

  --The technical contractor included a much broader spectrum of wastes as potentially hazardous than those designated as hazardous by EPA and appearing on the December 18, 1978, EPA list of hazardous wastes. In exercising this engineering and technical judgment, the universe of hazardous waste generators defined by the contractor was more comprehensive than that of previously compiled inventories.

  --More generators will test their wastes than actually have hazardous wastes in order to determine that they should be excluded from the system. This will increase the one-time costs of comparison to the list and testing.

  --Some generators who do not produce hazardous wastes but are uncertain of the components of their wastes may choose to enter the system rather than incur expensive testing costs. To the extent that this occurs, the regulated population will be larger than estimated.

- The analysis was performed assuming landfill disposal for all wastes because precise data on the impacts of RCRA on establishments using recycling and incineration were not available.

- Costs were developed on the assumption that hauling and disposal capacity will exist. To the extent that such capacity does not exist, excess demand may increase costs above the levels estimated.

- Haulers and disposers may be reluctant to deal with small volume generators and may charge a premium to service them. The Draft Economic Impact Analysis, for example, states that large landfill operators would tend to charge small volume disposers higher prices.

- Administrative costs for small volume generators, in particular the annual cost of testing, may differ from estimates reported here. Comprehensive testing costs were assumed to average $500 as stated in the Draft Economic Impact Analysis. This cost could be lower for small volume generators if their waste streams are less complex than are those of large volume generators. However, ADL recently estimated that comprehensive testing may cost as much as $750 to $2,000.

As might be anticipated at the lower volume levels, the analysis is relatively insensitive to changes in the variable costs of hauling and disposal, but extremely sensitive to fixed administrative costs. For example, a $100 increase in the cost of landfill disposal (from $70 to $170 per metric ton) has only a 5 percent incremental effect on costs for an average generator of less than 100 kg/mo, but a $100 decrease in the cost of comprehensive testing (from $500 to $400) decreases total generator costs by 12 percent.

At the higher volume levels where variable costs are dominant, changes in disposal costs affect total costs much more significantly than changes in testing costs. For example, for a generator of 1,500 kg/mo, a doubling of disposal costs translates into a 41 percent increase in total costs while halving of testing costs results in only a 23 percent decrease in per generator costs. Therefore, to the extent that disposal costs are higher than estimated, they will affect the larger generators relatively more than the smaller generators.

Representativeness of Available Financial Data

Firms that would be candidates for closure are generally the firms within an industry that have lower annual sales. These data are weakest for the smallest firms within a given industry. Analyzing available data, the economic consultant determined that profitability figures were fairly consistent within an industry. Where possible in the analysis, profit rates were mapped to the appropriate annual sales figures. For the smallest plants in a given SIC, however, it was not possible to determine actual profit rates, and the rates for the smallest establishments available were used even though these establishments are larger than many of the plants in the SICs analyzed.

The study approach assumed, therefore, that the profitability rate (expressed as a percent of sales) of very small establishments was similar to that of establishments that are only slightly smaller than average. This assumption may understate the number of closure candidates in an industry because closure candidates were assumed to be firms whose post-RCRA profits would be less than zero.

The sensitivities in the analysis will be explored further in Part IV. That part will focus on possible approaches to regulatory relief for small volume generators, especially in areas of program implementation for generators of waste quantities less than 100 kg/mo.

ATTACHMENT F

RECOVERY AND RECYCLING OF SOLVENTS IN THE DRYCLEANING AND LAUNDRY INDUSTRY

OVERVIEW

In drycleaning operations, both recovery and recycling practices have been an integral part of the cleaning process for over 70 years. Complete solvent re-use has always been employed via filtration, distillation, adsorption and vapor recovery processes in various combinations, depending on plant type and system configurations. As a result, no "spent" solvents per se are discarded from drycleaning systems. Instead, the only solvents discarded from a drycleaning plant are those entrained in the final residues from some type of recycling, reclamation or re-use process.

DRYCLEANING SYSTEMS—SOLVENT USE

Various distinct sectors exist under the broad umbrella of "drycleaning" as represented by the Laundry-Cleaning Council. These include neighborhood retail drycleaning stores, self-service coin-operated stores, industrial drycleaning plants, linen supply plants, leather and fur cleaning stores and others—approximately 72,000 plants according to the U.S. Census of Business.

Only three types of solvent suitable for dry cleaning are used by these 72,000 plants: perchloroethylene (a "listed" substance), petroleum solvent (normally producing an "ignitable" waste), and fluorocarbon 113 (i.e., trichlorotrifluoroethane—a "listed" substance). Currently, these solvents are used by approximately 85, 14, and 1 percent of all dry cleaning facilities in the United States. Because of physical and chemical differences in these solvents, the equipment in any individual dry cleaning plant may only be used with the particular solvent for which it was designed.

RE-USE AND RECOVERY OF SOLVENTS

Across the major industry sectors—and within sectors—various combinations of dry cleaning machines, filtration systems, distillation units, and vapor recovery devices may be in use. Illustrations of most of these system types are attached in Appendix A.

Because of the many possible combinations and variations of reclamation systems, we can best illustrate our processes with an example of the most representative plant type across the spectrum of our industry; i.e., a retail or "neighborhood" dry cleaning store using perchloroethylene:

Cleaning volume.—An average of 1,500 pounds of garments per week, or about 78,000 pounds of clothes a year.

Dry cleaning machine.—35 to 40 pound load capacity, using continuous circulation and filtration of solvent during cleaning.

Filtration system.—An attached cartridge filter system with approximately 12 individual cartridges. Each cartridge can be used for cleaning approximately 1,000 pounds of garments before it becomes filled with soil.

Distillation system.—An attached dry cleaning still which can be used to remove body oils, etc., transferred from clothes to the solvent. To maintain solvent in good condition, a minimum of 5 gallons is distilled for every 100 pounds clothes cleaned.

Waste produced.—Spent, soil-filled cartridges and concentrated still residues with oils, detergents, and unrecoverable solvent. Total quantity of hazardous waste—most of which is inert material—averages 125 kg/month.

Current practices to date have involved one- to two-day draining of cartridges before disposal, and concentration of still residues by "cooking" to remove residual solvent. These result in the solvent losses shown in the following table.

With new techniques just finalized after intensive research work over the past year by our industry, even these levels can be reduced. Reduction of still residue levels by up to 98 percent can be done in existing equipment, while cartridge solvent reductions by up to 96 percent can be accomplished with newly available equipment. The reduced solvent losses are also shown in the following table:

Procedures and process	Pounds waste per 1,000 pounds (clothes)	Solvent (percent)	Inert/solvent ratio-pounds	Reduction (percent)
Current:				
Still residue	28.0	57.0	12/16	
Cartridges	29.0	48.0	15/4	
New:				
Still residue	13.5	1.0	12/0.12	98
Cartridges	15.3	1.8	15/0.3	96

USE OF NEW TECHNOLOGY

The reduced solvent loss for still and muck residue is achieved by slightly modifying existing equipment to employ a new water-addition/azeotrope process and extending the running time. For cartridge filters, new equipment must be purchased for a just-developed steam stripping process. By using these new techniques the average plant can reduce disposal of hazardous constituent—the solvent itself—to less than 5 gallons per year. The total "hazardous" waste, however, which is in essence the inert materials in which the solvent residue is mixed, will total approximately 125 kg/month.

Mr. SKELTON. Now we will have a panel of witnesses from the National Federation of Independent Business. We have Bert Fridlin, Bonnie Hamm and Don Robinson. Welcome.

I will again remind you of our time constraints.

PANEL CONSISTING OF DON ROBINSON; BERT FRIDLIN; AND BONNIE HAMM

TESTIMONY OF DON ROBINSON, DIRECTOR, GOVERNMENT RELATIONS IN INDIANA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS; ACCOMPANIED BY MARGO HORNER

Mr. ROBINSON. Thank you, Mr. Chairman.

My name is Don Robinson. I am director of government relations in Indiana. I do have a prepared statement on behalf of NFIB, which I will submit for the record.

Very briefly, Mr. Chairman, we wish to give you the potential impact of this legislation on our three States. Also with me is Margo Horner from the NFIB staff here in Washington.

For Indiana, we are straining at the moment to cope with the large generator program. The problems of adequate funding, the problems of site approval—we only have one hazardous waste approved site, and that is in Fort Wayne—the legislation before you today will simply compound that problem, expanding our large generator number from about 2,500 to a minimum of about 10,000.

The State board of health indicates that approximately 120 to 125 additional personnel would be needed to bring into effect the resolution before you today, the bill before you today.

We simply recommend, very briefly, a phased-in program, step by step, over a longer period of time. We believe that the Shelby-Lent program is a step in the right direction, but we recommended that a minimum of about 3 years——

Mr. SKELTON. Let me interrupt. Where does NFIB stand relating to the Shelby-Lent amendment.

Mr. ROBINSON. We think it is heading in the right direction. But we do think that it needs to be strengthened.

Mr. SKELTON. You can't split the vote. Are you for it or against it?

Mr. ROBINSON. We are for it, with modifications. We think more time is needed—at least 3 years—for the phasing in, with 500, 250, and 125 kilos, in that order.

Mr. SKELTON. Please proceed.

Mr. ROBINSON. So, in essence, the Indiana program is straining at the moment, and this would simply increase our burden.

Thank you.

[Mr. Robinson's prepared statement follows:]

PREPARED STATEMENT OF DON ROBINSON, DIRECTOR, GOVERNMENT RELATIONS IN INDIANA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. Chairman, NFIB, on behalf of its more than 560,000 small and independent business members, appreciates this opportunity to submit our comments on the proposed legislative changes to the Resource Conservation and Recovery Act and the hazardous waste management program. We commend the Chairman for holding this hearing on H.R. 2867, the Hazardous Waste Control and Enforcement Act of 1983.

The NFIB believes that sound environmental management of hazardous waste is essential. Small business is prepared to do its fair share to achieve proper hazardous waste controls and assure human health and safety. Small business owners want to dispose of their wastes properly, but many of them are not aware they are generators and do not know how or where to dispose of their waste.

The Resource Conservation and Recovery Act [RCRA] (Public Law 94-580, 90 Stat. 2795, October 21, 1976) was enacted as an amendment to the Solid Waste Disposal Act in 1976. RCRA established this nation's basic hazardous waste management system from generation to final disposal under subtitle C of the act. RCRA requires the identification and listing of hazardous waste, a national manifest system for tracking wastes, standards for hazardous waste management, treatment, storage, and disposal facilities, and a permit system for treatment, storage, and disposal facilities.

Since RCRA's enactment in 1976, and particularly today, attention and expectation has been focused on the subtitle C program. The course of implementation to date has demonstrated that the task of comprehensive hazardous waste management is one of unparalleled scope and complexity.

In May 1980 the Environmental Protection Agency [EPA] promulgated its first major package of regulations to implement Subtitle C (Phase I). These regulations required waste identification, manifesting, transportation, and interim status treatment, storage, and disposal requirements. The EPA also promulgated a regulation, later codified at 40 C.F.R. 261.5, which excluded from most RCRA requirements small quantity generators who generate up to 1,000 kilograms (2,200 lbs.) per month of hazardous waste. Small quantity generators were allowed to dispose of their wastes into either a licensed sanitary landfill or into sewer lines which are connected to publicly owned treatment works. Such generators are not required to manifest, transport, treat, or maintain records for the wastes they generate.

To qualify for the small quantity generator exemption, generators must not generate or accumulate more than a specified amount of hazardous waste each month. The small quantity limits are:

No more than 1 kilogram per month for acutely hazardous waste;

No more than 100 kilograms per month of any residue or contaminated soil, water, or other debris resulting from the cleanup of any spill of any acutely hazardous waste; or

No more than 1,000 kilograms per month of any other hazardous waste.

In addition, the small generator must either treat or store the hazardous waste in an onsite facility or ensure delivery to an approved offsite storage, treatment, or disposal facility. This offsite facility must be a facility that has interim status or is permitted under the Federal RCRA program or an authorized State program, a State-approved municipal or industrial solid waste facility (subtitle D facility), or a facility that beneficially uses or reuses or legitimately recycles or reclaims the waste or treats it before such reuse or recycling.

Since our testimony is directed at the problem of the small quantity generator, let us examine who those small generators might be. A constant source of debate concerns how many small generators produce how much of the hazardous waste. For example, it has been estimated conservatively that if the threshold of 1,000 kilo-

grams per month was reduced to 100 kilograms per month, at least an additional 130,000 businesses would be regulated, including gas stations, dry cleaners, auto repair shops, and small manufacturers. Those 130,000 firms contribute only 1 percent of the total hazardous waste, while the remaining 99 percent is contributed by 60,000 large generators.[1] NFIB believes that no one is certain of the actual number of businesses which will be impacted. We do know, however, that at least those 130,000 firms, if not now, will face restrictive regulations if the small generator exemption is excluded.

Some of those small generator firms, who would be significantly affected by lowering the threshold for the small quantity generator, should have been afforded the opportunity to testify before the Committee of Jurisdiction. We commend this subcommittee for allowing their voice to be heard, as you intend to enact legislation which will directly impact their business and even their lives. Even today, many of these business owners are only now becoming fully aware of RCRA and Congress attempts to alter the small quantity exemption.

The direct cost of implementing and and operating the proposed regulatory system as envisioned by House bill 2867 and its counterpart in the Senate, S. 757, will be excessive for small business owners, who are not wealthy people as a group.[2] How will the proposed law affect one small businessman? A retail dry cleaner generates about 125 kilograms of hazardous waste per month. The estimated cost of disposal at an approved landfill for this type of waste, under the full operating conditions of RCRA subtitle C regulations, ranges from $4,300 to $7,200 per year.[3] Dry cleaning plants, service stations and other small businesses are prime candidates for closure if faced with such high costs.

NFIB's members have been frequently polled on problems affecting their small businesses. In each poll, excessive regulatory and paperwork burdens have ranked high on their list of business problems. There is no question that the proposed changes to RCRA will exacerbate the problem. A small businessman's productive office hours will be absorbed by the additional paperwork on small generator matters in addition to his attempt to understand the highly technical and complex environmental laws. Small business owners do not have the resources to hire legal counsel or knowledgeable consultants to advise them on hazardous waste disposal problems.

Mr. Chairman, your subcommittee is examining H.R. 2867, the Hazardous Waste Control and Enforcement Act of 1983, which proposes to include small generators of hazardous waste under extensive EPA regulations. The NFIB strongly objects to the bill's repeal of the small generator exemption because of its tremendous negative impact on small business. H.R. 2867 requires that all small generators generating greater than 25 kilograms per month would have to comply with specific reporting requirements at the time the hazardous waste is transported off the business premises. Such generators would be required to provide the transporter of the generator's waste with a manifest form which would contain specific information about the generator and the hazardous waste. To comply with the requirements of H.R. 2867, the small businessman must be prepared to face hauling, insurance, storage, and paperwork expenses.

H.R. 2867 permits the onsite storage of hazardous waste greater than 100 kilograms but less than 1,000 kilograms per month for up to 180 days without the requirement of a permit. The bill imposes a penalty of as much as $25,000 per day for violators of H.R. 2867. The NFIB is particularly concerned that H.R. 2867 provides for only 90 days within which small business owners may be educated on the intricacies of the hazardous waste laws.

The NFIB strongly objects to the small quantity generator regulation which would impose all of RCRA's requirements on companies in the event EPA failed to promulgate regulations within 24 months after enactment of H.R. 2867. If EPA failed to meet its statutory deadline, then all existing hazardous waste regulations

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[1] Statement by Joseph G. Gerard on the Resource Conservation and Recovery Act [RCRA] before the Subcommittee on Commerce, Transportation and Tourism of the House Energy and Commerce Committee for the Chamber of Commerce of the United States, March 24, 1983, pp. 2-3.

[2] The Census Bureau has reported that the median income of self-employed males is $1,800 less than male wage and salary earners. See U.S. Bureau of the Census, "Current Population Reports," Series P-60, No. 101, "Money Income in 1974 of Families and Persons in the United States," U.S. Government Printing Office, Washington, D.C. 1976, p. 139.

[3] Letter to Senator John Chafee, chairman, Senate Environmental Pollution Subcommittee, for submission to the hearing record, June 30, 1982, from International Fabricare Institute, enclosing written comments and "Summary of Effects on Retail Dry Cleaning of A Reduction of the Small Generator Exemption to 100 Kilograms per month."

under RCRA would apply to any business that generates greater than 100 kilograms per month. Clearly, the small generators are being punished because Congress has set unrealistic deadlines or EPA has failed to act in a timely manner. How will those small generators understand any small quantity generator laws if they are forced to comply with one body of law, then if EPA fails to promulgate a small generator regulation, they must comply with the rules already in effect for the large generator? Would this nightmare of confusion persist if at a later date the EPA promulgated a whole new set of small generator regulations?

The proposed changes in the small quantity generator exemption and their potential effect on small business is in many ways identical to the position small business was placed in after passage of the Occupational Safety and Health Act in 1970. Virtually overnight, small firms were compelled to comply with a vast and confusing array of new regulations. No distinctions were made between the resources of big firms vis-a-vis small firms. No allowances were given to the vast majority of small firms which had proven track records of providing safe and healthy workplaces. No attempt was made to educate the business regarding new responsibilities or effective, practical ways of achieving workplace safety and health. Regulation for regulation's sake seemed to be of paramount importance. We would hope that the lessons were learned from the OSHA experience, and that we not repeat the same mistakes with RCRA.

For this reason, the NFIB proposes that the small quantity generator exemption be phased down slowly over a three-year period until the EPA's in-depth study of alternative methods for regulating small quantity generators of hazardous waste is completed in June 1985. The exemption would be lowered the first year to 500 kilograms, the second year to 250 kilograms and the third year to 125 kilograms. This phased-in approach to the lowering of an exemption would not be as drastic as those modifications to the exemption which are contained in both the House and Senate bills.

The NFIB recommends that the Congress take into consideration the following guidelines at the time of preparation of hazardous waste legislation:

Educate small generators as to the requirements of federal hazardous waste laws.

Allow flexibility in hazardous waste identification, storage, transport and tracking so that the small generator is not necessarily burdened by complex regulations and procedures.

Require an appropriate study of small generators' waste management practices to determine what level of federal control is necessary to protect the environment before promulgation of regulations.

Provide for basic identification and segregation of hazardous wastes by small generators when wastes are shipped offsite.

Small quantity generators must have simplified reporting forms for manifesting. Their forms should not be the same ones currently used by the large generators.

In recalling some of the objectives of RCRA, which are to promote both the protection of health and the environment and to conserve valuable material and energy resources, the NFIB realizes that those objectives may be achieved by "providing technical and financial assistance to state and local governments and interstate agencies for the development of solid waste management plans" and by "establishing a cooperative effort among Federal, state, and local governments and private enterprise in order to recover valuable materials and energy from solid waste." In that spirit of cooperation, the NFIB believes that a statewide assessment of small generators should be conducted at the local government level. Such an inventory would determine where the small generators are located and how much waste is actually generated. Florida's Leon County has just completed such an assessment. Further, states should establish "transfer holding sites" if there is no available hazardous waste site in that state. Such holding sites would serve as a temporary depository for the collection of waste prior to its transportation to a hazardous waste site in another state. The NFIB's State Directors of Government Relations, who will testify before this subcommittee, will be able to address some of these issues.

For those states which do not currently possess a hazardous waste facility site, H.R. 2867 offers no solution to that dilemma. Direct Federal involvement in hazardous waste siting has been virtually non-existent. Some general site location standards are included in the few EPA regulations which have addressed the siting issue, and the Agency has published a few reports describing the nature of siting problems. The EPA should publish model siting criteria as well as a compilation on the different approaches states have taken to the siting issue. The Federal Government should also provide states with hydrogeologic information necessary to determine the suitability of locations for waste management facilities. Section 3005 of RCRA

28-533 O - 84 - 7

gives EPA the authority to establish location standards for hazardous waste facilities.

Imposing rigorous regulatory requirements on businesses would accomplish nothing if accessible hazardous waste dump sites are not provided. Locating appropriate sites for waste facilities is a serious problem and should be of paramount priority to the Federal Government. Otherwise, the imposition of a reduced threshold for the small quantity generator would impose a costly burden on small businesses without the benefit of a solution to the siting problem.

The NFIB has appreciated this opportunity to share with you the views of our members and our State Directors of Government Relations on this issue of small generators and our guidelines for an alternative way of achieving the necessary environmental protection. The NFIB hopes that these hearings will demonstrate to this subcommittee and full Committee that more thought and planning should be given to the problem of the small generators before enacting sweeping quick-fix legislative changes. Special accommodation must be made for small quantity generators in light of their smaller scale of operation. Phased in modifications to the small generator exemption, to storage, recordkeeping and reporting, accumulations, and container requirements must also reflect this smaller scale of operation.

TESTIMONY OF BERT FRIDLIN, DIRECTOR, GOVERNMENT RELATIONS IN GEORGIA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. FRIDLIN. I am Bert Fridlin. I am Georgia State director of government relations for the National Federation of Independent Business.

My testimony has been presented to the committee, and I would just like to summarize it. Basically, I want to give you a perspective from my situation in Georgia.

I reside in Atlanta and, for the past 5 years, have been involved in legislative activities on a State level concerning hazardous waste in Georgia. I believe, and I know that NFIB believes, that it is not unreasonable to have small quantity generators to dispose of their waste in a proper manner. The problem I have with the present bill is that if it is enacted, basically we are going to have a situation where we enact a piece of legislation and keep our fingers crossed that it works.

Mr. SKELTON. You are speaking of the Florio bill. Is that correct?

Mr. FRIDLIN. Yes, sir, H.R. 2867.

Basically, I think that it is unreasonable to ask the small generators to be subjected to a regulatory system which does not include an economically feasible system of paperwork and transportation and disposal site availabilities.

It is a matter of interpretation, but basically I think that the time provisions included in the Florio bill are a little bit inconsistent and confusing and create some uncertainty, because of the 24-month time period before the bill basically would take effect, the 18-month time period for EPA to come up with the regulations, and the 90-day period for small generators to manifest their waste if they dispose of it offsite. I don't think these provisions are really clear. I think that if a small businessman were to read that portion of the bill or someone who is involved with that, he would be confused about the ramifications of this bill.

I think that some of the things the legislation does not address are: It does not insure the establishment of more disposal sites, either incinerators or landfills, which are subject to heavy opposition by the general public. It does not address the lack of transporters, the high transportation costs for small quantities of hazardous

waste and who would pick it up if you had a small quantity. There aren't very many people who will pick up hazardous waste at the present time.

It does not mention the development of potential storage and transfer points for small quantities which would lower costs. It does not insure less paperwork, and it does not address the large financial and insurance liabilities for small generators. It also does not take into consideration the very high minimum disposal fees at waste sites. It also does not talk about the development of better technology to dispose of hazardous waste.

Basically, as far as Georgia goes, we have no approved hazardous waste planned disposal sites in Georgia. There are two in the Southeast and one in Alabama and one in South Carolina. The minimum disposal fee in Alabama is $350. So if you had a pitcher of hazardous waste and you wanted to dispose of it in Alabama, it would cost you $350 to do that. In South Carolina, the minimum disposal fee is $200. There is very limited incinerator capacity.

I think Georgia is fortunate in that we have one motor carrier, St. Joseph Motor Lines in Atlanta, which specializes in transporting small quantities of hazardous waste. But, as far as I know and as far as they know, St. Joseph's is the only carrier in the United States that does that.

I think what you have to take into consideration in the transporter situation is once you manifest a small quantity of hazardous waste—25 kilograms, 100 kilograms, 250 kilograms—who is going to pick it up? Once you identify it, who is going to pick it up? It may just end up sitting on your loading dock or in your store, or whatever, for a long time because nobody will come to pick it up.

My recommendations are that you consider giving States more authority in this area. We have talked about somewhere between 18 and 20 States have already taken action in reducing the small generator exemption. I think the trend is likely to continue there. It has been discussed in Georgia.

I would bring to your attention the National Governors Association resolution in February 1983 which supported explicit Federal authority for States to regulate at their discretion small sources of hazardous waste, between 100 and 1,000 kilograms. Basically, every environmental program that the Congress has passed and that EPA has written regulations for, EPA has gone to the States and asked them to run the programs. Most all of the States have taken this responsibility and are running the air quality, the water quality, and the hazardous waste management programs.

Mr. SKELTON. Excuse me. If we want to hear from the representative from Florida, maybe we better ask you at this point——

Mr. FRIDLIN. Basically, what I would recommend is that we have a cooperative effort by the Federal and State agencies to deal with this situation. I think that each State knows its situation and priorities best and could help you out in that regard to deal with the hazardous waste problem.

Thank you.

Mr. SKELTON. Thank you.

[Mr. Fridlin's prepared statement follows:]

PREPARED STATEMENT OF BERT FRIDLIN, DIRECTOR, GOVERNMENT RELATIONS IN GEORGIA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

I am Bert Fridlin, Director, Governmental Relations/Georgia for the National Federation of Independent Business. I reside in Atlanta, Ga., and for the past 5 years, have been involved in legislative activities concerning hazardous waste in Georgia. Thank you for offering me this opportunity to appear before you today.

The proposed legislation before us today, H.R. 2867 has many good intentions but also has several flaws.

It is not unreasonable to ask small-quantity generators of hazardous waste to dispose of their waste in a proper manner. It is unreasonable to ask them to be subjected to a regulatory system which does not include an economically feasible system of paperwork, and transportation and disposal site availability. It has been difficult enough for business to understand and for EPA and the States to administer and enforce the present hazardous waste regulations. H.R. 2867 will not make the process any easier.

The inconsistencies of the time provisions included in proposed subparagraphs (d)(1), (d)(2), (d)(3), (d)(4) and (d)(8) of Section 3001 will cause confusion and uncertainty in the small business community. Subparagraphs (d)(1), (d)(2), and (d)(8) are completely overridden by (d)(4) which requires an EPA manifest for movement offsite of 25 kilograms or more of hazardous waste. The 24-month effective date in (d)(1) does not equate with the 90-day effective date in (d)(4).

Subparagraph (d)(4) will cause many economic hardships on many small businesses because it will in effect place them under present hazardous waste regulations if they move their waste offsite or if they begin to store waste on their premises. Add the unrealistic time frames of 90 days and the threat of large civil fines under section 3008 and the economic hardships of compliance with (d)(4) will take their toll on small business.

Economic hardships also will result because this legislation does not:

Insure the establishment of more disposal sites, either incinerators or landfills which are subject to heavy opposition by the general public;

Address the lack of transporters and high transportation costs for small quantities of hazardous waste;

Mention the development of storage and transfer points for small quantities which could lower costs;

Insure less paperwork for small-quantity generators;

Address financial and insurance liabilities for small-quantity generators;

Consider high minimum disposal fees for small quantities of hazardous waste;

Address development of better technology to dispose of hazardous waste;

Only two approved hazardous waste land disposal sites are in operation in the Southeast. One in Alabama where the minimum disposal fee is approximately $350 per shipment and one in South Carolina where the minimum disposal fee is approximately $200.00 per shipment. Very limited incinerator capacity is available. Add these prices to the cost of paperwork, preparation for shipment and transportation costs and the burden increases. Georgia is lucky that it has one motor carrier, St. Joseph Motor Lines in Atlanta, which specializes in transporting small quantities of hazardous waste; however, it is the only carrier that I know of that does so.

Instead of passing H.R. 2867 and keeping your fingers crossed that it will work, I would suggest that the states be given authority to regulate small-quantity generators and write regulations according to the specific conditions existing in each state. Eighteen states have already lowered the small-quantity generator exemption. This trend is likely to continue by the remaining 32 States. In February, 1983, the National Governors Association adopted a resolution supporting "explicit federal authority for states to regulate at their discretion small sources of waste (between 100 and 1,000 kilograms per month)."

Each State should be given the authority and flexibility to regulate small-quantity generators since the amounts generated, availability of transportation and availability disposal of sites vary from State to State. States can learn from each other how to establish the best system of regulation.

After all, the U.S. Environmental Protection Agency [EPA] has authorized most States to administer and enforce existing hazardous waste programs. I am sure that EPA would not be able to administer and enforce by itself this small-quantity generator program.

Each State, in cooperation with local governments, could develop a program of hazardous waste management with appropriate regulations for small-quantity generators which could be monitored by EPA. State and local officials are more likely to know the problems of their small businesses and be able to develop a program

which will protect the environment and cause the least economic hardship on small business. This is the case in Georgia.

States should be given at least 2 years to establish a regulatory program for small-quantity generators to include: (1) approved temporary storage and transfer points where small quantities could be collected and segregated and then transported in large loads to disposal sites at reduced rates and disposed of at reduced rates; (2) a minimum of paperwork; (3) reduced financial liabilities; (4) an appropriate education program for generators; and (5) realistic time periods for compliance.

We already have a cooperative effort by Federal and State agencies to regulate hazardous waste management. States are administering their programs and EPA is administering "Superfund." EPA needs to devote its attention to cleaning up abandoned sites and leave the management of present and future hazardous waste generators—large and small—to the States. I ask that you will seriously consider allowing State regulatory programs for small-quantity generators.

Thank you again for this opportunity to appear before you today.

Mr. SKELTON. Ms. Hamm.

TESTIMONY OF BONNIE HAMM, DIRECTOR, GOVERNMENT RELATIONS IN FLORIDA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Ms. HAMM. I am Bonnie Hamm, director of government relations for NFIB in Florida. For the past 5 years, I, too, have been involved in the hazardous waste management issue. I appreciate the opportunity to bring to you many of the concerns of small business people and Florida and, I think, throughout the Nation, with the legislation before you today.

To begin with, Florida, as you may know, has passed a new law which speaks to the small generators. However, nothing in the bill will take effect for at least 24 months, and that bill will be phased in over the next 3 to 4 years.

The first thing that bill mandates is a strong education program for small quantity generators throughout the State. I would suggest to you that something that is lacking in this bill is that very provision.

Currently, small business people in Florida—and elsewhere I am told—have no economically feasible means to haul their hazardous waste. Their quantities are too small and their need is too infrequent to attract haulers who deal only in large quantities. Lowering the exemption level will really force millions of small business people to seek services which, in reality, are not available to them now. If they are available, they are available infrequently and at a tremendous cost.

One of the things the Florida law mandates is that counties and regions will site and assist in the construction of transfer facilities. As you know, Florida, because of our ground water and the permeable soil that we have, has no, and never will have a hazardous waste dumping facility. So we need transfer facilities. I think this is a need that States throughout the Nation have. We have got to have transfer facilities located at a reasonable geographic proximity to the small business person.

As I said earlier, we must have an education program that helps that small business person understand the provisions of this law and understand how to comply with these provisions.

Mr. SKELTON. I know you can't speak for all 50 States, but in your opinion do you think that the NFIB would participate in the overall education of any program that Congress might pass?

Mr. ROBINSON. Ms. Horner can respond to that.

Ms. HORNER. I can assure you we would be more than willing to assist in that endeavor.

Mr. SKELTON. Thank you.

Ms. HAMM. Let me just say that I feel that, in order to be environmentally effective, changes in RCRA must be cost effective to the small business person.

So I would like to close by suggesting that the law be phased in, that education be provided, and that transportation, disposal, and transfer facilities, and the need for those for the small generator be spoken to and dealt with.

Thank you.

[Ms. Hamm's prepared statement follows:]

PREPARED STATEMENT OF BONNIE HAMM, DIRECTOR, GOVERNMENT RELATIONS IN FLORIDA, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

I speak today in behalf of the hundreds of thousand of people in Florida who make their living by operating their own small businesses . . . and I speak indirectly in behalf of similar millions throughout America.

Thank you for this unique opportunity.

Florida this year passed legislation regulating disposal of hazardous waste, and as Florida, more than any other state with the possible exceptions of California or Colorado, depends on the maintenance of its pristine environment for the support of its largest industry, the tourist trade, I suggest that its legislative program be considered as a model for the entire nation.

A number of well-considered factors support this conjecture. The balance of my remarks will dwell on these factors.

Under consideration by this committee, and of paramount concern to the Americans I represent through NFIB, is changing the present exemption threshold to include "small generators." Under present laws, until the full Congress acts to change them, only those companies (largely major manufacturers) producing 1,000 kilograms (approximately 2,200 pounds) per month are included in the provisions requiring complicated and expensive disposal.

Congressmen . . . this already covers 98.9 percent of the hazardous waste of all descriptions and degree of hazard produced in this entire country.

You are considering . . . sadly, you are seriously considering, enacting legislation excessively burdensome and expensive to millions of Americans who make their livelihood by operating a small concern that unfortunately may now be identified as dangerous to the neighbors they have served for generations . . . like photographers and typesetters and dry cleaners and small restaurants and auto repair shops and many others as seemingly innocuous as bakeries . . . shoe repair shops . . . and literally thousands of others. . . . And now, you propose to further interpret blanket regulations already in effect so that these regulations will also cover each of these very unique businesses.

What are we expecting to achieve by this legislation affecting the very fabric of American commerce and ingenuity and free enterprise? We are attempting to regulate only another eight-tenths of one percent of the hazardous waste generated in our country . . . as a college freshman, in my most basic business courses, I learned about "the point of diminishing returns."

Currently, the small businessperson in Florida, and elsewhere, I am told, is unable to obtain economically feasible hazardous waste hauling services.

His quantities are too small, and his need is too infrequent to attract haulers dealing only in large quantities from a single source. Lowering the exemption level will force millions of small business people to seek services which in reality are not available to them . . . or in the rare instances when they are available, are far more expensive than can be afforded.

In addition, this legislation assumes all hazardous waste will go to hazardous waste disposal sites, regardless of the degree of hazard, nature of containerization, or volume . . . however small. Barring EPA action within 18 months, the use of sanitary landfills which could safely accept such wastes will be precluded. More importantly, if EPA fails to act in 18 months, any flexibility in making rules or designating landfills as feasible for limited specific volumes and types of waste will be

taken from EPA. I question the ability of EPA to "gear up" to comply with the 18 month deadline.

Florida, while enacting legislation which does affect a greater number of businesses, and which does effect a number of changes, at least has been wise enough to consider the needs of its business population, and to make provisions accordingly.

Under Florida's new laws, individual counties are mandated to designate locations for transfer/storage facilities . . . and Regional Planning Councils are required to use these sites to locate a regional transfer facility.

In addition, private enterprise is given incentives . . . such as tax credits . . . to construct these facilities.

The small businessperson must have transfer facilities within a reasonable geographic proximity to his business location. EPA should mandate such transfer facilities for all States.

At the same time, a network of so called "milk run" haulers to service the small generator should be encouraged to develop. Florida law will do just that by instituting a series of "Amnesty Days" for small business. Over the next 3 years, a series of 6 such "Amnesty Days" will be used to encourage small generators to dispose of their waste at no cost to themselves and without fear of penalty.

These "Amnesty Days" will serve to educate the small generator as to proper disposal techniques, and should encourage the development of a network of haulers to make a series of stops for small quantities of waste from a variety of small businesses.

No study has yet been produced to identify true exemption levels . . . or the existence of any necessity to disallow sanitary landfills . . . or the desirability, if any, of blanket rules and regulations covering all sizes of generators.

Until such studies are available, it appears we will continue to answer theoretical problems by arbitrary means.

Members of Congress . . . in order to be environmentally effective, changes in the current RCRA law must also be cost effective for the small businessman. You are seeking to increase the current effectiveness of the law only from 98.9 to 99.7 percent . . . less than 1 percent . . . but you will be affecting the lives and livelihood of millions of Americans . . . with no facts to prove that the current compliance of small business with RCRA is in any way damaging to the environment, or even potentially harmful.

If you feel certain that this is necessary, consider your most important constituency . . . the millions of Americans who make their living by the work they do in their own businesses . . . and give them a chance by allowing a phased-in level of exemption . . . give EPA flexibility to write rules specific to the unique requirements of this new, diverse population . . . mandate transfer facilities in easily accessible regions throughout all the States . . . remove the ban on landfill disposal . . . create a network of waste haulers to meet the special needs of small generators . . . and this way, you will meet the needs of your constituents, and of America's small business men and women . . . and we will all say. . .

Thank you.

Mr. SKELTON. Mr. Hiler.

Mr. HILER. Thank you very much, Mr. Chairman.

Mr. Robinson, Indiana had a small generator exemption, or had reduced the small generator exemption, and then repealed that law. I wonder if you might be able to tell us a little bit about what happened in Indiana.

Mr. ROBINSON. We went down to 440, but that program simply bogged down. The sites backed off, the reporting requirements, the paperwork, all of the hassle, it simply backed off. Indiana rescinded that, and it went back to the Federal 1,000 exemption.

Let me just add, Mr. Hiler, that the intent was excellent. The means and the systems to bring that intent about were faulty. We think that is comparable to the legislation before you today.

Mr. HILER. Indiana went to 440, and section 3 goes to 100. Do you think that if the 100 were to be implemented the way it is currently planned under section 3, a State like Indiana would be able to meet that?

Mr. ROBINSON. I do not, for the reasons I heretofore expressed, that we are struggling with the present program, and that that would simply just exacerbate the whole problem.

Mr. HILER. I wonder if you might tell me a little more about the program in Florida. You say it is 24 months for the regulations to be developed and then phased in over 3 to 4 years?

Ms. HAMM. Roughly, yes. We passed that less than a month ago. The law stipulates that counties and regions will begin to survey and identify those small quantity generators and that, within a year after that survey, they will begin a series of amnesty days. But nothing will start for at least the first year to 18 months because of the need to find those people and to write those rules and regulations. In reality, it really is 2 years.

Mr. HILER. I wonder, Mr. Robinson, if you might be able to comment on this. This will be my final question. I think you delivered basically the statement for the NFIB.

If I can just read this paragraph:

> For this reason, NFIB proposes that the small quantity generator exemption be phased down slowly over a 3-year period until the EPA's indepth study of alternative methods for regulating small quantity generators of hazardous waste is completed in June of 1985. The exemption will be lowered the first year to 500 kilograms, the second year to 250 kilograms, and the third year to 125 kilograms.

Are you saying that for the reporting requirements, that that is the way that phase-down would work?

Mr. ROBINSON. I believe that is true. Ms. Horner probably could address that.

Ms. HORNER. That is correct.

Mr. HILER. OK. I am not sure I understand the section 3, as written, and the Shelby-Lent amendment, as proposed. It would say that the regulations would not take effect for 30 months, although the notice requirements would take place after 180 days. How does that differ from what you are saying?

Ms. HORNER. Basically what we are trying to do at this stage of the game is to phase in the approach so that it would be by far easier for our members, the small quantity generators, to comply with the requirements. A lot of these specifics have not at this stage been worked out. Currently, we wish to prepare our members through the educational process of complying with the requirements of the law, since many of them are not familiar with the fact that they are small quantity generators.

Mr. HILER. Thank you very much.

I yield back, Mr. Chairman.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. Ms. Hamm, you talked about the cost, the prohibitive cost to the small businessmen in terms of waste disposal and hauling.

I am aware of your association, the NFIB, having an extensive informational and educational network. Can't the association—you might have answered this already, but I would like some clarification—assist in helping on an industrywide basis by working together perhaps? Won't the economies of scale reduce that cost? I believe you mentioned in your paper something about amnesty. Would you elaborate on that?

Ms. HAMM. On amnesty days?

Mr. TORRES. Yes. Does that tie in with my question, that is, the economies of scale and how you can reduce the cost if you could really work together industrywide?

Ms. HAMM. I think the problem will come—and the dry cleaner who has 2 or 3 gallons, whatever, the paint and body shop operator who has a totally different waste four downs—I think the problem is going to come in the small and various quantities of waste.

One of the things I speak to, and I hope will be developed, is sort of a milk-run type of hauling network that will develop. Right now, that large—I mean whatever size hauler he is—doesn't want to come to pick up a particular small thing and take it all by itself wherever, to Alabama or to Arkansas.

We have people who have been told that that hauler will not come there because it is not economically feasible for the hauler to do it, or if it is, the cost is so prohibitive that that small business person can't afford it.

Mr. TORRES. Where does that amnesty come in?

Ms. HAMM. We will have a series of 6 amnesty days over the next 3 years. During that period of time, as I understand it, by region, a hauler will come in under contract to the State, and this will be paid for by the State through a rather unique way. People will either be allowed to come to that designated location and dispose of their waste, or that hauler will make the milk-run in that area to pick those wastes up. There will be no penalties, no negative consequences for that person having had that on his property, nor will there by any costs to that small business person.

Mr. TORRES. Thank you.

Mr. SKELTON. Mr. Bedell.

Mr. BEDELL. No questions.

Mr. SKELTON. Thank you all very much.

We are able to move right along.

Without objection, I am going to put the next two panels together. Maybe we will save a few minutes that way. We have Ralph Engel, president of the Chemical Specialties Manufacturers Association; Murray Glauberman, president of Malco Products, Inc.; David Carlson, supervisor, environmental quality of the McLaughlin, Gormley King Co., and I would like to also include Richard Turney of the Automotive Service Industry Assoc.; and Jules Rapp of the Adhesive and Sealant Council.

PANEL CONSISTING OF RALPH ENGEL; MURRAY GLAUBERMAN; DAVID CARLSON; RICHARD TURNEY; AND JULES RAPP

TESTIMONY OF RALPH ENGEL, PRESIDENT, CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION

Mr. ENGEL. Thank you, Mr. Chairman.

I am Ralph Engel, president of the Chemical Specialties Manufacturers Association. I am accompanied today by Murray Glauberman, president of Malco Products, Inc. of Barberton, Ohio, on my right; and Mr. David Carlson of McLaughlin, Gormley & King of Minneapolis, Minn., on my left. They both traveled here today to give you an insight into the problems relative to RCRA.

We believe the most effective method of assisting this subcommittee in understanding the impacts of the changes to the existing

small generator exemption contained in H.R. 2867 is to hear directly from the businessmen who are impacted by the bill.

To that end, I would like to stop and allow these gentlemen to address the subject. On my right, Mr. Glauberman, please.

TESTIMONY OF MURRAY GLAUBERMAN, PRESIDENT, MALCO PRODUCTS, INC.

Mr. GLAUBERMAN. My name is Murray Glauberman, and I am president of Malco Products, Inc., a small manufacturer of automotive chemical products which is located in Barberton, Ohio. Our company employs approximately 250 people. We presently quality as a small quantity generator under the Resource Conservation and Recovery Act, or RCRA.

Too frequently in the past, environmental legislation directed toward desirable goals has not been carefully enough considered or crafted to moderate the disproportionate compliance burdens created for small companies. Both Malco Products, Inc. and CSMA believe that sound environmental management of hazardous waste is essential, and we are committed to the development of hazardous waste regulations that insure human health and safety.

We are concerned, however, that the current pressures within Congress to quickly close a so-called loophole in the hazardous waste regulatory system perceived to result from the small quantity generator exemption may result in excessive controls on hazardous waste generated by small businessmen.

The issues surrounding modification of the present exemption are complex and can only be adequately resolved through careful analysis based on reliable information. By imposing rigid mandatory deadlines for issuance of regulations, the bill, in effect, precludes the agency from gathering the information necessary for answering the critical technical and policy issues raised by the exemption.

Mr. SKELTON. Excuse me. You said the bill in effect, you mean the bill that is being presented; is that not correct.

Mr. GLAUBERMAN. Yes, sir, H.R. 2867.

Under the small quantity generator exemption promulgated by EPA inn 1980, generators of less than 1,000 kilograms of hazardous waste or less than 1 kilogram of acutely hazardous waste in a calendar year are excluded from manifesting, transporting, treatment, and recordkeeping requirements of RCRA.

I should be stressed that even if a generator is exempt from many of RCRA's paperwork and recordkeeping requirements due to small quantity generator status, he must still evaluate all his wastes from his manufacturing and processing operations to determine if they are listed hazardous wastes under RCRA, or exhibit the characteristics of ignitability, corrosivity, reactivity, or toxicity. The small quantity generator must then ensure that the hazardous waste is sent to a Federal or State-approved treatment, storage or disposal facility.

H.R. 2867 would drastically modify and perhaps entirely eliminate the small quantity generator exemption, thereby creating the inequitable situation in which a company producing just over 100 kilograms of hazardous waste a month would be subject to the

same strict packaging, labeling, recordkeeping and manifesting requirements as a manufacturer generating that much waste in an 8-hour shift.

The most immediate effect from H.R. 2867 is that, within 90 days of passage, all generators currently covered by the exemption, except those generating less than 25 kilograms of hazardous waste a month, would have to accompany all offsite shipments with a uniform hazardous waste manifest. Since this document has not even been issued in final form by EPA, it will be difficult to inform that various employees of my company of their full compliance responsibilities or to obtain the necessary forms within the 90-day period. More importantly, for a small chemical company like ours which operates on a very small profit margin, and with a staff that is necessarily limited in size, the increased paperwork will represent a considerable expense. Staff time that is normally devoted to productive management will have to be reallocated to paper-sorting.

Since the waste of a small company like ours remains virtually the same for most of the year, we would favor a one-time notification informing transporters of the nature and approximate quantity of the waste being shipped offsite. The notification requirement could be automatically reapplied each time the character of the waste changes from what was previously shipped.

Within 18 months of enactment, the bill requires the Administrator to promulgate even more stringent regulations applicable to small quantity generators who produce between 100 and 1,000 kilograms of hazardous waste a month. At the minimum, these regulations must limit the storage of hazardous waste without a permit to 180 days, require the use of a manifest, and restrict disposal of hazardous waste to a subtitle (c) facility.

Current RCRA regulations applicable to large quantity generators limit onsite storage without an EPA permit to 90 days. The 90-day period does not begin to run for small quantity generators, however, until the hazardous waste accumulated exceeds 1,000 kilograms. This enables generators of very small amounts of hazardous waste to aggregate waste and avoid shipping only partially filled containers.

Mr. SKELTON. Excuse me, Mr. Glauberman, I would suggest, in light of the fact that we have some other witnesses and in light of the fact that Mr. Rapp has just joined us, if you could possibly summarize, it may give some of the other witnesses a bit of time. We are under a time constraint.

All of your statement will be in the record, I might add.

Mr. GLAUBERMAN. In general, there are many important unanswered questions surrounding the small quantity generator exemption. To what extent does the current exemption pose an identifiable risk to human health and environment? What are the best means of minimizing any risks without imposing crippling costs on small business? Finally, can the existing subtitle (c) treatment, storage, and disposal facilities handle the additional paperwork and absorb the hazardous waste from small quantity generators currently excluded from most of the RCRA regulations.

A final objection to H.R. 2867 concerns the so-called hammer provisions which would impose the full weight of RCRA on small

quantity generators of more than 100 kilograms of hazardous waste a month within 24 months if EPA has failed to promulgate regulations applicable to these generators within an 18-month period. This is an especially heavy-handed attempt by the authors of the bill to regulate through legislation. Thoughtful consideration of any substantial change in the regulatory coverage of present small quantity generators will raise important technical issues. While it is the proper role of Congress to address policy issues, deference should be given to the experience and expertise of EPA on specific technical issues.

As a practical matter, the hammer provision could also result in two varying sets of RCRA regulations applicable to small quantity generators within a very short period of time. Compliance with any additional RCRA regulations will be difficult for most small businesses, but compliance with two successive sets of regulations will be ridiculously confusing.

We urge that the hammer provision be stricken entirely from H.R. 2867.

Thank you, Mr. Chairman, for the opportunity to present my views.

Mr. SKELTON. Thank you so much.

Mr. ENGEL. On my left is Mr. Carlson, if I may.

Mr. SKELTON. Mr. Carlson.

TESTIMONY OF DAVID CARLSON, SUPERVISOR OF ENVIRONMENTAL QUALITY, McLAUGHLIN GORMLEY KING CO.

Mr. CARLSON. I am David Carlson, supervisor of environmental quality for the McLaughlin Gormley King Co. MGK is a manufacturer of household and industrial insecticides. We are a small privately held business employing 53 people in Minneapolis, Minn.

Even though we are a small business, the nature of our products and the amounts of hazardous waste that we generate require our full compliance with the existing cradle-to-grave manifesting and other regulations under the RCRA program.

I would like to offer the subcommittee some insights into how we comply with RCRA and the potential burdens that these requirements might place on other small businesses which would be brought under regulation through the provisions of section 3 of H.R. 2867. I will focus on three areas of concern: storage, insurance requirements, and costs.

Under RCRA regulation, hazardous waste may be stored onsite beyond 90 days only if the facility has received a permit from EPA designating it as a hazardous waste storage facility. MGK recycles a substantial amount of waste solvents onsite. We believe that this is a cost-effective and environmentally sound method of dealing with waste products.

We must store these solvents for periods of time because the equipment used for recycling is also used in manufacturing our products. Our recycling occurs during slack periods or when our waste solvents inventory is large. We often store wastes for over 90 days and, therefore, must be designated a licensed storage site under RCRA.

Further complicating the storage problem is the fact that MGK found waste transporters reluctant to pick up less than a truckload of hazardous wastes. For less than truckload shipments, we would have to pay a considerable premium since the per-unit charge escalates rapidly as the volume of the shipment decreases.

The first step in the process of obtaining a permit to operate a storage facility was filing a part A application with EPA setting out basic information on the amounts and kinds of wastes generated and the intended method of storage. EPA then responded by requesting we complete part B of the application, involving extensive questions regarding past and present business practices of the company. I have here a manual that was given to us by EPA to aid in helping prepare part B of that permit.

Mr. SKELTON. How many pages is that manual?

Mr. CARLSON. They are not numbered. There are many sections.

Mr. SKELTON. Let the record show it is over an inch thick.

Mr. CARLSON. Right. Much of this information bears no relation to environmentally sound disposal of hazardous wastes. Many of the questions also seek confidential information which could be very harmful to the competitive viability of our business. EPA officials have admitted to us that they could not guarantee protection of all of this confidential information. The ultimate irony of the situation is that EPA changed regulations regarding part B in midstream, leaving us operating under an interim storage permit until further notice.

Based on EPA's interim status regulations, applicable to storage facilities and conversations with various EPA staff, MGK determined that our existing warehouse would not be adequate for storage of hazardous waste. In consulting with local fire officials, State and Federal regulators and contractors, MGK found that the best design and most cost-effective program for a hazardous waste storage facility required construction of an entirely new and separate structure. Various design specifications were added to this structure, including a secondary containment system, 24-hour security, special diking, and equipment to prevent hazardous waste incidents. These expenses resulted in the reallocation of scarce capital and resources that could have been devoted to productive investment and research and development into new products.

This new building added to our property tax base, even though, in a business sense, it is a nonproductive facility. A new set of internal procedures for policing the movement of hazardous waste was also required. Records are needed each time waste moves from the factory to the warehouse and from the warehouse to the transporter. A new facility, new operating procedures, and additional paperwork are the result of only the first cycle of RCRA requirements, before the wastes ever leave the facility site.

As the operator of a storage facility, we are obligated by RCRA to assure that funds are available for closure and to cover any potential civil liability for accidents, such as spills. MGK initially turned to the insurance industry to meet these requirements. We discovered that few companies are able to provide cost-effective insurance for closure coverage. We could not get a quote for this insurance because the companies told us they had no basis from which to calculate premiums.

We also made several inquiries regarding sudden and nonsudden pollution occurrence coverage. After finally locating a company, we requested a quote on June 23, 1982, on a policy with $4 million per occurrence and $8 million annual aggregate protection. MGK received the quote on June 16, 1983, nearly 1 year later.

The annual cost of that insurance is $17,000 with a $25,000 deductible. This quote was also contingent on three factors: That we received a favorable report made on our onsite short-term storage tanks, a favorable report on a hydrologic study of our site, which is still underway, and that the insurance company could find a reinsurer who would absorb most of the risk from them.

Because of the tremendous costs of this policy and the contingencies of acceptance, we had no choice but to continue with insurance for only sudden occurrences, and accept the risk and liability for the nonsudden occurrences. How many small businesses which are being covered under H.R. 2867 can afford these kinds of costs, even assuming that the insurance industry will make the coverage available?

I would like to address three areas of additional costs associated with our compliance with RCRA.

First, compliance with the law and our recordkeeping are expensive. We estimate that keeping up to date on the regulations, compiling records, filing reports, and storing documents, with the associated man-hours involved, costs the company between $6,000 and $10,000 per year.

Mr. SKELTON. We have to put a little pause on you right there, unless you have a quick summary.

Mr. CARLSON. I can conclude. I have a few more costs that might be pertinent.

Mr. SKELTON. Go right ahead, please.

Mr. CARLSON. OK.

Second, we know that the analysis of our waste runs anywhere from $300 to $3,000, depending on whether it is a simple physical characteristic or complete characterization of waste. Some of the incinerators are asking for the complete characterization. We have a small laboratory, and we still are required to send some of our analytical work out. Many of the smaller companies do not even have the scientists available to do even a general evaluation.

Additionally, there is disagreement among EPA, the generating industry, and the disposing and transporting industry as to how much and what kind of data is needed. This also creates confusion and adds to the costs of complying with the law.

Finally, the actual costs of disposing of our wastes are tremendous. MGK has experienced a range of costs between 40 cents and $4 per gallon equivalent, depending upon the size of the shipment, the type of disposal procedure, and the nature of the wastes. A typical size shipment ranges from between 2,500 to 5,600 gallons, and could cost between $4,000 and $10,000 for transportation and disposal.

The existing hazardous waste regulations are extremely complex and confusing, particularly for a small company. EPA itself has struggled and frequently faltered under the enormous challenge of implementing a comprehensive regulatory system for hazardous waste where none existed previously. EPA has granted few permits

and has continually reinterpreted various aspects of the program. The past years have been an exercise in trying to comply with a moving target.

Rather than further straining the administrative capabilities of EPA by adding an estimated 500,000 to 750,000 small quantity generators to the system, Congress should allow EPA the opportunity to make the existing program work, with sufficient flexibility to minimize the burdens on small businesses.

Mr. Chairman, we will be pleased to respond to any questions.

Mr. SKELTON. Thank you.

[The prepared statements of Messrs. Engel, Glauberman, and Carlson follow:]

PREPARED STATEMENT OF RALPH ENGEL, PRESIDENT, CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION

I am Ralph Engel, president of the Chemical Specialties Manufacturers Association [CSMA]. I am accompanied today by Mr. Murray Glauberman, president of Malco Products, Inc. of Barberton, Ohio and Mr. David Carlson of the McLaughlin Gormley King Co., Minneapolis, Minn.

CSMA is a national voluntary, nonprofit membership association composed of some 400 companies engaged in the manufacture and marketing of household, institutional and industrial specialty chemicals such as insecticides; disinfectants and sanitizers; detergents and cleaning compounds; automotive chemicals; and waxes, polishes and floor finishes. A number of CSMA's member companies are considered small businesses, and their special interests are represented within the association through our Small Business Council.

Mr. Chairman, we appreciate the opportunity to appear before this subcommittee to present our views on section 3 of H.R. 2867, a bill to reauthorize and amend the Resource Conservation and Recovery Act [RCRA].

We believe that the most effective method of assisting this subcommittee in your understanding of the impacts of the changes to the existing small quantity generators exemption contained in H.R. 2867 is to hear directly from the businesses who are impacted by the bill. Both gentlemen with me today represent companies active in CSMA's Small Business Council. Mr. Glauberman will address specific concerns regarding section 3 of H.R. 2867. Mr. Carlson's company, although a small business, is subject to all current RCRA requirements. He will address the difficulties that his company faces in compliance, in order that the subcommittee understand some of the problems that small businesses will face when and if they are brought under the substantial regulatory requirements of RCRA, as mandated in this proposed legislation. I ask that Mr. Glauberman and Mr. Carlson be permitted to present their thoughts at this time.

PREPARED STATEMENT OF MURRAY GLAUBERMAN, PRESIDENT, MALCO PRODUCTS, INC.

My name is Murray Glauberman, and I am president of Malco Products, Inc., a small manufacturer of automotive chemical products which is located in Barberton, Ohio. The company employs approximately 250 people. We presently qualify as a small quantity generator under the Resource Conservation and Recovery Act, or RCRA.

I appreciate the opportunity to appear before this Subcommittee and present my views on H.R. 2867. Like many representatives of small businesses within the Chemical Specialties Manufacturers Association [CSMA], I am grateful to you, Mr. Chairman, for holding this hearing because we do not believe the impact of these proposed legislative changes on small businesses has been adequately addressed by the House Energy and Commerce Committee.

Too frequently in the past, environmental legislation directed toward desirable goals has not been considered carefully enough or crafted well enough to moderate the disproportionate burdens created for small companies. Both Malco Products, Inc., and CSMA believe that sound environmental management of hazardous waste is essential, and we are committed to the development of hazardous waste regulations that ensure human health and safety. We are concerned, however, that the current pressures within Congress to quickly close a so-called loophole in the hazardous waste regulatory system perceived to result from the present small quantity

generator exemption may result in excessive controls on hazardous waste generated by small businesses at enormous cost.

The issues surrounding modification of the present exemption are complex and can only be adequately resolved through careful analysis based on reliable information. By imposing rigid mandatory deadlines for issuance of regulations, H.R. 2867, in effect, precludes the Environmental Protection Agency [EPA] from gathering the information necessary for answering the critical technical and policy issues raised by the exemption.

Under the small quantity generator exemption promulgated by EPA in 1980, generators of less than 1,000 kilograms of hazardous waste or less than 1 kilogram of acutely hazardous waste in a calendar year are excluded from the manifesting, transporting, treatment and recordkeeping requirements of RCRA.

It should be stressed that, even if a generator is exempt from many of RCRA's paperwork and recordkeeping requirements due to small quantity generator status, he must still evaluate all wastes from his manufacturing and processing operations to determine if they are listed hazardous wastes under RCRA, or exhibit the characteristics of ignitability, corrosivity, reactivity, or toxicity. The small quantity generator must then ensure that the hazardous waste is sent to a Federal or State approved treatment, storage or disposal facility.

H.R. 2867 WOULD IMPOSE SUBSTANTIAL PAPERWORK BURDENS WITHIN 90 DAYS OF ENACTMENT

H.R. 2867 would drastically modify and perhaps entirely eliminate the small quantity generator exemption, thereby creating the inequitable situation in which a company producing just over 100 kilograms of hazardous waste a month would be subject to the same strick packaging, labeling, recordkeeping, and manifesting requirements as a manufacturer generating that much waste in an 8-hour shift.

The most immediate effect is that, within 90 days of passage, all generators currently covered by the exemption, except those generating less than 25 kilograms of hazardous waste a month, would have to accompany all offsite shipments with a uniform hazardous waste manifest. Since this document has not even been issued in final form by EPA, it will be difficult to inform the various employees of my company of their responsibilities or to obtain the necessary forms within the 90-day period. More importantly, for a small chemical company like ours which operates on a very small profit margin and with a staff that is necessarily limited in size, the increased paperwork will represent a considerable expenses. Staff time that is normally devoted to management and production will have to be reallocated to paper-sorting.

Since the waste of a small company like ours remains virtually the same for most of the year, we would favor a one-time notification informing transporters of the nature and approximate quantity of the waste being shipped offsite. The notification requirement could be automatically reapplied each time the character of the waste changes from what was previously shipped.

REQUIREMENTS OF H.R. 2867 TAKING EFFECT IN 18 MONTHS

Within 18 months of enactment, the bill requires the Administrator to promulgate even more stringent regulations applicable to small quantity generators who produce between 100 and 1,000 kilograms of hazardous waste a month. At the minimum, these regulations must limit the storage of hazardous waste without a permit to 180 days, require the use of a manifest, and restrict disposal of hazardous waste to a subtitle C facility.

Current RCRA regulations applicable to large quantity generators limit onsite storage without an EPA permit to 90 days. The 90-day period does not begin to run for small quantity generators, however, until the hazardous waste accumulated exceeds 1,000 kilograms. This enables generators of very small amounts of hazardous waste to aggregate waste and avoid shipping only partially filled containers. Since production in the chemical specialty industry is subject to seasonal and economic fluctuations—particularly true for small businesses—a very small company may exceed the 100-kilogram level in one peak month but fall well below that threshold in succeeding months. The company might only have accumulated one or one and a third containers of hazardous waste, rather than a half dozen, and would have to pay a premium for the offsite transportation of such a small amount of waste. Obtaining a storage permit is an unlikely solution to the problem because of the complexity of the application process and the difficulty of meeting the specifications for storage facilities.

Within 18 months, offsite shipments of hazardous waste by small quantity generators of more than 100 kilograms a month would have to be accompanied by a manifest. The proposed statutory language would permit the Administrator to lessen the specific requirements for entries on the manifest which would be applicable to small quantity generators. There is no mention, however, of authority to lessen the additional requirements related to the use of a manifest, such as recordkeeping. It appears that the authors of the bill intend all manifest-related requirements to apply after 18 months. These requirements include:

(1) retaining a copy of the manifest signed by the transporter and the operator of a treatment, storage or disposal facility for 3 years; and

(2) submitting an exception report to EPA if the generator has not received a copy of the manifest within 45 days of acceptance of the waste by the transporter.

This recordkeeping and paperwork will impose a significant strain on the recources of our company. Considering the relatively small amounts of hazardous waste generated by small quantity generators, we believe it is inequitable and unnecessary to impose the full manifest storage and tracking requirements on small companies. At the very least, the statutory language should be modified to specifically authorize EPA to minimize these requirements for small companies, if the Agency determines they are unnecessary to protect human health and the environment.

Perhaps the most troublesome of the minimum obligations which EPA is directed to impose on generators of between 100 and 1,000 kilograms of hazardous waste a month is the requirement that all of their hazardous waste go to permitted subtitle C facilities. For the many kinds of hazardous waste that can be effectively and safety handled at a State-licensed sanitary landfill (or subtitle D facility), this blanket requirement is unnecessary and excessively costly for the small quantity generators which will be affected. Furthermore, since there are a limited number of subtitle C facilities at present, diverting the waste of small quantity generators to the facilities will likely increase the cost of hazardous waste treatment even higher than it is now.

SPECIFIC TECHNICAL QUESTIONS REGARDING THE EXEMPTION SHOULD BE EVALUATED THROUGH THE ADMINISTRATIVE RULEMAKING PROCESS

The determination that certain wastes could be safety handled at subtitle C facilities is primarily a technical issue which EPA must study and resolve through the administrative process. The administrative rulemaking process is the appropriate forum for determining the types and quantities of waste which should be treated exclusively at subtitle C facilities.

It also offers an additional protection for small businesses which is not guaranteed by the legislative process, and that is the Regulatory Flexibility Act. As the House Small Business Committee is well aware due to its admirable role in spearheading the drive for passage of the Regulatory Flexibility Act in 1980, Federal agencies must take into account the impact of proposed and final regulations on small entities and explore alternatives that may mitigate the disproportionate impact which regulations may have on small businesses.

Ironically, the small quantity generator exemption, which predated the Regulatory Flexibility Act, is thoroughly consistent with that law and is an example of regulatory tiering specifically mentioned in the law as an alternative to uniform regulations applicable to all companies regardless of size. Re-examination of the small quantity generator exemption may be necessary, but we urge Congress to refrain from adopting language that prematurely and unnecessarily restricts the EPA Administrator's exercise of discretion in developing regulatory controls applicable to present small quantity generators.

EPA'S COMPREHENSIVE STUDY OF SMALL QUANTITY GENERATORS

In general, there are many important unanswered questions surrounding the small quantity generator exemption. To what extent does the current exemption pose an identifiable risk to human health and the environment? What are the best means of minimizing any risks without imposing crippling costs on small businesses? Finally, can the existing subtitle C treatment, storage, and disposal facilities handle the additional paperwork and absorb the hazardous waste from small quantity generators currently excluded from most of the RCRA regulations?

The Office of Solid Waste of EPA is in the process of undertaking a comprehensive, two-year study designed to evaluate the existing exemption and identify possible changes, if necessary. EPA will select 50,000 facilities across several dozen industries as participants. If selected, Malco intends to participate in the survey and

CSMA has expressed its intent to publicize the study and encourage participation by any of its members which are selected. We are hopeful that the survey will provide EPA with a reliable data base for any subsequent development of RCRA regulations affecting small quantity generators. Congress should allow EPA sufficient time for completion of the study and analysis of the results before mandating wholesale modification of the small quantity generator exemption.

THE HAMMER PROVISION SHOULD BE DELETED

A final objection to H.R. 2867 concerns the so-called hammer provision, which would impose the full weight of RCRA on small quantity generators of more than 100 kilograms of hazardous waste a month within 24 months if EPA has failed to promulgate regulations applicable to these generators within an 18-month period. This is an especially heavy-handed attempt by the authors of the bill to regulate through legislation. Thoughtful consideration of any substantial change in the regulatory coverage of present small quantity generators will raise important technical issues. While it is the proper role of Congress to address legislative issues, deference should be given to the experience of EPA on specific technical issues.

Given the complexity of the issues and the current lack of information on the full ramifications of increasing regulatory controls on small quantity generators, it is unclear whether 18 months provides EPA with sufficient time to develop the regulations mandated by H.R. 2867. But even assuming it is, the hammer provision would punish small businesses for failure of a Federal agency to carry out its responsibilities. This is patently unfair since small businesses obviously have no control over EPA operations. There is no rational link between a desired goal and the penalty chosen for failure to achieve that goal.

As a practical matter, the hammer provision could also result in two varying sets of RCRA regulations applicable to small quantity generators within a very short time period. Compliance with any additional RCRA regulations will be difficult for most small businesses, but compliance with two successive sets of regulations will be ridiculously confusing.

We urge that the hammer provision be stricken entirely form H.R. 2867.

Thank you, Mr. Chairman, for the opportunity to present my views.

Prepared Statement of David Carlson, Supervisor of Environmental Quality, McLaughlin Gormley King Co.

I am David Carlson, Supervisor of Environmental Quality for the McLaughlin Gormley King Co. [MGK]. MGK is a manufacturer of household and industrial insecticides. We are a small privately-held business employing 53 people in Minneapolis, Minn. Even though we are a small business, the nature of our products and the amounts of hazardous waste that we generate require our full compliance with the existing cradle-to-grave manifesting and other regulations under the RCRA program. I would like to offer the subcommittee some insights into how we comply with RCRA, and the potential burdens that these requirements might place on other small businesses which would be brought under regulation through the provisions of Section 3 of H.R. 2867. I will focus on three areas of concern: storage, insurance requirements, and costs.

STORAGE

Under RCRA regulation, hazardous waste may be stored on-site beyond 90 days only if the facility has received a permit from EPA designating it as a hazardous waste storage facility. MGK recycles a substantial amount of waste solvents on-site. We believe that this is a cost-effective and environmentally sound method of dealing with waste products.

We must store these solvents for periods of time because the equipment used for recycling is also used in manufacturing our products. Our recycling occurs during slack periods or when our waste solvents inventory is large. We often store wastes for over 90 days, and therefore must be designated a licensed storage site under RCRA.

Further complicating the storage problem is the fact that MGK found waste transporters reluctant to pick up less than a truck load of hazardous wastes. For less than truckload shipments, we would have to pay a considerable premium since the per-unit charge escalates rapidly as the volume of the shipment decreases.

The first step in the process of obtaining a permit to operate a storage facility was filing a part A application with EPA, setting out basic information on the amounts

and kinds of waste generated and the intended method of storage. EPA then responded by requesting we complete part B of the application involving extensive questions regarding past and present business practices of the company. Much of this information bears no relation to environmentally sound disposal of hazardous wastes. Many of the questions also seek confidential information which could be very harmful to the competitive viability of our business. EPA admitted to us that they could not guarantee protection of this confidential information.

The ultimate irony of the situation is that EPA changed its regulations regarding part B in midstream, leaving us no choice but to operate under an interim storage permit.

Based on EPA's interim status regulations applicable to storage facilities and conversations with various EPA staff, MGK determined that our existing warehouse would not be adequate for storage of hazardous waste. In consulting with local fire officials, state and federal regulators and contractors, MGK found that the best design and most cost-effective program for a hazardous waste storage facility required construction of an entirely new and separate structure. Various design specifications were added to this structure, including a secondary containment system, 24-hour security to prevent unauthorized entry, special diking, and equipment to prevent hazardous waste incidents. These expenses resulted in the re-allocation of scarce capital and resources that could have been devoted to productive investment and research and development into new products.

This new building added to our property tax base, even though, in a business sense, it is a nonproductive facility. A new set of internal procedures for policing the movement of hazardous waste was also required. Records are needed each time waste moves from the factory to the warehouse and from the warehouse to the transporter. A new facility, new operating procedures, and additional paperwork are the result of only the first cycle of RCRA requirements—before the wastes ever leave the facility site.

As the operator of a storage facility, we are obligated by RCRA to assure that funds are available for closure and to cover any potential civil liability for accidents, such as spills. MGK initially turned to the insurance industry to meet these requirements. We discovered that few companies are able to provide cost effective insurance for closure coverage. We could not get a quote for this insurance because the companies told us they had no basis from which to calculate premiums.

We also made several inquiries regarding "sudden and non-sudden pollution occurrence" coverage. After finally locating a company, we requested a quote on June 23, 1982, on a policy with $4 million per occurrence and $8 million annual aggregate protection. MGK received the quote on June 16, 1983, nearly a year later.

The annual cost of that insurance is $17,000 with a $25,000 deductible. This quote was also contingent on three factors: (1) that a favorable report was made on our on-site short-term storage tanks; (2) a favorable report on a hydrologic study of our site, which is still underway; and (3) that the insurance company could find a reinsurer who would absorb most of the risk from them. Because of the tremendous costs of this policy and the contingencies of acceptance, we had no choice but to insure ourselves, and accept the risks and liability for accidents. How many small businesses which are being covered under H.R. 2867 can afford these insurance costs? Even assuming that the insurance industry makes the coverage available.

OTHER COSTS

I would like to address three areas of additional costs associated with our compliance with RCRA.

First, compliance with the law and our recordkeeping are expensive. We estimate that keeping up-to-date on the regulations, compiling records, filing reports and storing documents, with the associated man-hours involved, costs the company between $6,000 and $10,000 per year.

Second, we have to know what is in our wastes, therefore, they must be analyzed. Tests range from simple physical characteristics to complete characterizations of the wastes. Analyzing wastes can cost between $300 to $3,000 per sample and these tests should be done annually. MGK has a small laboratory at our plant which researches and tests new products. Even so, we often must send our waste to an outside firm for analysis. Many small businesses do not have scientists of staff and would have to contract with outside laboratories for all their work. The costs of contracting out this analytical work would be much greater than MGK's.

Additionally, there is disagreement among EPA, the generating industry, and the disposing and transporting industry as to how much and what kind of data is needed. This also creates confusion and adds to the costs of complying with the law.

Finally, the actual costs of disposing of our wastes are tremendous. MGK has experienced a range of costs between $0.40 and $4.00 per gallon-equivalent, depending upon the size of the shipment, the type of disposal procedure, and the nature of the wastes. A typical size shipment ranges from between 2,500 and 5,600 gallons and could cost between $4,000 and $10,000 for transportation and disposal.

CONCLUSION

The existing hazardous waste regulations are extremely complex and confusing, particularly for a small company. EPA itself has struggled and frequently faltered under the enormous challenge of implementing a comprehensive regulatory system for hazardous waste where none existed previously. EPA has granted few permits and has continually reinterpreted various aspects of the program. The past years have been an exercise in trying to comply with a moving target.

Rather than further straining the administrative capabilities of EPA by adding an estimated 500,000 to 750,000 small quantity generators to the system, Congress should allow EPA the opportunity to make the existing program work, with sufficient flexibility to minimize the burdens on small businesses.

Mr. Chairman, we will be pleased to respond to any questions you may have concerning our testimony.

Mr. SKELETON. Mr. Turney.

TESTIMONY OF RICHARD F. TURNEY, WASHINGTON REPRESENTATIVE, AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION, AND LEGISLATIVE CONSULTANT, AUTOMOTIVE LEGISLATIVE COUNCIL OF AMERICA, ACCOMPANIED BY VIRGINIA BLISS, CONSULTANT

Mr. TURNEY. Thank you, Mr. Chairman. My name is Richard Turney. I am the Washington Representative for the Automotive Service Industry Association, and legislative consultant for the Automotive Legislative Council of America. I am joined by my associate, Virginia Bliss, who works with both organizations.

ASIA represents over 8,500 firms which manufacture and distribute automotive parts and accessories. ALCA represents over 7,000 independent automotive repair facilities, both mechanical and autobody. The independent automobile aftermarket has over 500,000 establishments employing more than 1.8 million people, and a gross annual sales of $95 billion, 90 percent of the firms are small business.

Hazardous waste regulation for small quantities must be based on fact. You heard Mr. Thomas say today it is 90 to 95 to 97 percent regulated already at 1,000 kilograms. We are talking about a small part of that waste stream.

Our members want to abide by the law and to operate in an environmentally sound manner, but this requires assistance, education, and guidance based on fact, and that is just not the case under H.R. 2867. No association has 100 percent of its available members. It can't reach everybody in that industry.

ASIA and ALCA, although we have heard of the Shelby-Lent legislation, continue to urge retention of current EPA environmentally sound and economically sound decision on the 1,000-kilogram exemption, until the agency has completed its contracted small quantity generator study. We feel this is a responsible request. There is no problem working with EPA to develop regulations after completion of that study. Then those regulations can be based on fact rather than suppositions.

The small business community is in a quandary, especially in our industry, about the bill. Many of our industries use the same over-the-counter type of products you and in use as home consumers. Our members don't have staffs of chemists to analyze their wastes or legal staffs to litigate the details of the law. The aftermarket currently has no way of identifying what, if anything, in the industry's waste stream is actually hazardous, and won't until EPA assists us with that identification. Time and again, we have asked why not let EPA complete its ongoing study of the small generator. Then let them regulate upon facts. The answer has always been EPA isn't doing its job, as Mr. Florio said this morning, we intend to force them to act to regulate this unregulated portion of the hazardous waste stream. The intentions may be worthy, but we don't believe the methods in H.R. 2867 are.

Under current law, all generators carry the ultimate liability for the wastes. If small business is to be regulated so be it, but the regulations have to be workable. All the paperwork in the world will not effectively dispose of any wastes. Responsibility must also be required of the hauler for the disposition of that waste. To regulate only one portion of the problem seems incomplete.

In fact, ASIA and ALCA believe that the industry's liabilities ought to cease when a properly identified waste is given to a certified or EPA-licensed waste hauler.

In our written statement, you will see some cost factors from around the country. I won't go into those in specifics, but you will see they vary greatly depending on geographic location.

Small business needs your help. ASIA and ALCA appreciate the subcommittee holding this hearing. You are giving the small business community its only substantial opportunity to build a record on the problems inherent in H.R. 2867 that affect them directly. We desperately need members of this committee to go further than Shelby-Lent and take an amendment to the floor to strike the small generator language contained in section 3 of H.R. 2867.

If this bill is adopted in its current form, many small businesses will likely be in noncompliance through no fault of their own, because they can't identify whether or not the chemical formulations used in their businesses are hazardous. The aftermarket needs your help in proper identification so it can protect the environment. We want to be environmentally responsible, and we will be, if we are given the opportunity. H.R. 2867 forces regulation in the dark, which has been brought about by scare tactics of environmental groups who have made it abundantly clear they don't care what it costs. In the long run, this ends up being more costly to the environment by inadvertently encouraging midnight dumping rather than compliance with the law.

All ASIA and ALCA ask is that EPA be allowed to do its job within a reasonable timeframe, and the industry be able to obtain assistance and education on how to responsibly comply with whatever regulations are finally promulgated.

Look at attachment B to my statement. Proponents to the bill have claimed that information is available on the listing of hazardous wastes. That is very true. What you are looking at is from the May 25, 1983 Federal Register, 29 pages of chemical substances which are considered hazardous. They are listed in chemical terms.

I can't even pronounce most of them, let alone know what they are. How many laymen could understand this document and then accurately translate it to their own waste stream?

If you look at attachment C, you will note that a waste hauler was found in Scranton, Pa., he dumped 581 truckloads, more than 3.6 million gallons, of manifested hazardous waste into the mines in Pennsylvania. That is 10,000 drums of manifested hazardous waste from large firms, not from small generators, but very large firms that were giving him the correct information.

Attachment D is a letter that I wrote to Matthew Straus of EPA urging that the hauler be included in the study. This is the study of all the SIC codes, Mr. Chairman. You might want to note for the record that it is almost an inch thick. They are going to try to do the study and come out with regulations in 18 months.

The last attachment is a letter from Wholesaler's Clutch Co. in St. Louis, Mo., that outlines their problems in which he notes especially in one section, "Such a situation may well lead to the innocent evasion or the willful disregard of the regulations by competitors."

Thank you. We will be glad to try to answer any questions you may have.

Mr. SKELTON. Thank you.

[Mr. Turney's prepared statement with attachments follows:]

PREPARED STATEMENT OF RICHARD F. TURNEY, WASHINGTON REPRESENTATIVE, AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION, AND LEGISLATIVE CONSULTANT, AUTOMOTIVE LEGISLATIVE COUNCIL OF AMERICA

Mr. Chairman, my name is Richard Turney and I am testifying on behalf of the Automotive Service Industry Association [ASIA] and the Automotive Legislative Council of America [ACIA].

ASIA is the world's largest and most comprehensive automotive organization. Its membership encompasses more than 8,500 independent automotive wholesalers, warehouse distributors, heavy duty parts and equipment distributors, automotive electric service distributors, manufacturers' representatives, manufacturers and remanufacturers of automotive replacement parts, tools, equipment, chemicals, paint, refinishing materials, supplies and accessories.

The independent automotive aftermarket is comprised of over 500,000 establishments which employ more than 1,800,000 people and have a gross annual sales of over $95 billion. Over 90 percent of these firms are classified as small business. While most of the companies that comprise the aftermarket are small businesses, in total they represent a most significant industry, one that collectively makes a substantial contribution to the national economy.

ALCA represents over 7,000 independent automotive repair facilities, both mechanical and a[illegible]body. Each shop employs between 3 and 6 persons making an aggregate membership of approximately 37,000 persons.

It is estimated that one out of every six jobs in this nation is auto related. ASIA and ALCA members represent a good portion of that total. (See attachment A, "An Economic Profile of the Automotive Aftermarket.")

As small businesses we are being threatened by over-regulation which is often onerous as well as unnecessary. H.R. 2867 is just the type of "regulatory" legislation which makes "doing business" difficult and costly, if not impossible.

What is needed is regulation that is based on fact. Our members are not, and do not wish to be, in the business of polluting the environment. They are in business to provide a service or product to the consuming public, and to make a reasonable profit after paying wages, taxes and benefits for their employees. They sincerely want to abide by the law and to operate in an environmentally sound manner, but this will require education and guidance based upon fact.

The small generator provision, as contained in Section 3 of H.R. 2867, will be an overwhelming burden to the small businessmen of this country who wish to comply with the law. The bill as written eliminates the 1,000 kilogram EPA exemption from paperwork, manifesting and so forth for businesses and drops its to 100 kg. of haz-

ardous waste per month. It also requires notification to EPA if 25 kilograms of hazardous waste a month is generated. If at the end of 18 months, EPA has not completed its study of the issue and promulgated regulations, the small business community, generators of 100 kg. or more per month, will fall under the full force of RCRA regulation, size not withstanding.

The small business community is in a quandry about H.R. 2867. What exactly is hazardous? Many of our small businesses use the same over-the-counter types of products you and I use at home as consumers. The vast majority of these products are compounds. Our small business members don't have staffs of chemists to analyze their wastes, nor do they have enormous legal departments to litigate the details of the law. In the aftermarket, Mom often keeps the books and Pop and two or three mechanics do the labor required to keep the Nation's cars in working order. To ask this type of operation to make a sound, scientific judgment on its waste stream without any guidance than, "It's the law" is ludicrous. The aftermarket currently has no way of identifying what, if anything, in the industry's waste stream is actually hazardous and won't until EPA assists in its identification.

Proponents of the bill claim that the information is available on listings of hazardous wastes. True. The May 25, 1983 Federal Register had 29 pages of chemical substance which are considered hazardous. They are listed in chemical terms. (See attachment B, a sample page from the Federal Register.) How many laymen could understand this document and then accurately translate it to their own businesses' waste stream? This information can only be found in the Federal Register, a document which doesn't have great readership outside of the confines of Washington or legal departments of large companies. How many of the affected businessmen even have access to or know about this publication?

Time and again the question has been asked, "Why not let EPA complete its ongoing study of the small generator? Then let them regulate upon facts." The answer has always been, "EPA isn't doing its job and we intend to force them to act, to regulate this 'unregulated' portion of the 'hazardous waste' stream." The intentions may be worthy, but the method in H.R. 2867 certainly is not. Especially when you consider we are only talking about 2 or 3 percent of the waste stream generated in the entire United States. This legislation is tantamount to holding the small business community hostage in an attempt to force EPA to take action in an unrealistic amount of time in diverse areas. The areas of concern encompass several hundred SIC codes, 10 of which relate to the automotive aftermarket. If at the end of the legislated time period EPA has not acted, someone in the small business community will be "offered up", so to speak. Each day that goes by another small businessman will "get shot" until some definitive action is taken. The industry is more than willing to obey laws and regulations when it knows exactly what is expected. Why should the small business community pay the penalty if unrealistic deadlines are imposed upon EPA as they are in H.R. 2867?

No association represents 100 percent of any industry. No matter how well an association works to educate its members there will be a large portion of any given industry who will never have access to association literature on how to comply with the proposed laws and regulations.

ASIA and ALCA continue to urge retention of the 1,000 kilogram exemption instituted by EPA until the agency has completed its contracted small quantity generator study. They feel this is a reasonable request. There is no problem working with EPA to develop regulations after completion of a study. Then the regulations will be based upon fact rather than suppositions. They have no problem with a time certain for regulation at the end of the study, but do have great difficulty with nebulous regulations based on emotional responses, rather then scientific data.

No one wants to see a repeat of Times Beach, but that "accident" was the making of a waste hauler who collected waste oil, mixed in other wastes and through ignorance spread the oil to settle road dust. There have been cases where the generator has labeled his waste so that the hauler knew exactly what he was carrying, and then the hauler disposed of the wastes incorrectly.

There was an article in the July 18, 1983 Newsweek concerning a trucking firm was hauling manifested toxic wastes and who was disposing of the cargo down the garage drain for several years. This hauler was not picking up unidentified wastes. He was picking up manifested wastes from large nationally known companies. Yet the waste was being disposed of improperly. (See attachment C).

Under current law, generators carry the ultimate liability for their wastes. If small business is to be regulated, so be it, but the regulations have to be workable. If segregating and manifesting of trash is required, then give the small businessman some assurance that the people who haul it away dispose of it properly, and let them assume some of the liability for its final disposition. All the paperwork in the

world will not effectively dispose of wastes. Responsibility must also be required of the hauler for the disposition of the waste.

If segregating and manifesting of wastes for shipment is to be mandated, the industry should have some guarantees that the waste is indeed going to a proper waste site. The small businessman should be protected against "gouging" by an industry which will be handed a monoploy on the carriage of hazardous waste. To regulate only one portion of the problem seems incomplete. In fact, ASIA and ALCA believe that industry's liabilities ought to end when a properly indentified waste is given to a certified or EPA licensed waste hauler. (See attachment D, a letter to EPA on the "missing link" in the study, that of the hauler.)

Because there are limited numbers of Subtitle C facilities and limited carriers to handle this newly regulated community, the price of services will be one "of whatever the traffic will bear." Since they will have a monopoly the cost could be staggering. Some estimates have been as high as $50 to $300 per drum.

In checking with several firms around the country that are now under RCRA regulations and some that are not, we received the following information:

Two North Carolina members reported vastly differing costs. One, a fairly large firm generating over 1,000 kg/mo. and presently under RCRA, says it is costing them $85,000 per year for compliance. The other firm is small, it is costing them $1.84 per gallon or $101.20 per 55 gallon drum because of the considerable distance to any approved dump site.

A Philadelphia firm is paying $2 a drum, but a Minneapolis firm has found that because all of its wastes must go to Chicago or Utah, hauling the waste in its own trucks at an estimated cost of $15 per drum is its least expensive alternative.

Attached is a letter from the Wholesaler's Clutch Service Company of St. Louis, Missouri that estimates if the small generator exemption is reduced to cover their wastes, the increased cost to the firm would be $15,000 to $20,000 per year, (Attachment E). Please note his words of caution on page 2 of his letter regarding endorsement and its possible resulting increase in what we term "midnight dumping."

Small business needs your help! ASIA and ALCA appreciate the Small Business Committee holding these hearings, for they are giving the small business community its only substantial opportunity to build a record on the problems inherent in H.R. 2867 affecting them. Up until now the small businessman's problems with the bill have been largely ignored. We desperately need members of the Small Business Committee to take an amendment to the floor to eliminate the small generator language contained in section 3 of H.R. 2867. If H.R. 2867 is adopted in its current form, many small businesses will likely be in noncompliance through no fault of their own because they cannot identify whether or not the chemical formulations used in their businesses are hazardous. The aftermarket needs your help in getting proper identification so that it can protect the environment. The industry wants to be environmentally responsible, and will be, if given the opportunity. H.R. 2867 does not give us that opportunity. It forces regulation in "the dark" which has been brought about by scare tactics of some environmental groups which have made it abundantly clear they don't care what it costs.

In the long run this could end up being more costly to the environment by inadvertently encouraging "midnight dumping" rather than compliance with the law. All ASIA and ALCA are asking is that EPA be allowed to do its job within a reasonable time frame and that industry be able to obtain assistance in education on how to responsibly comply with whatever regulations are finally promulgated.

Profile of the Automotive Aftermarket

The following profile of the automotive aftermarket is presented in the hope that it will provide a better understanding of the scope and sweep of that industry.

The fundamental function of that industry is to provide the automotive parts, supplies, tools and equipment to service and repair the Nation's 165 million registered vehicles and "off-the-road" equipment. The companies performing this function are for the most part the small and medium sized businesses that make up the economic backbone of our Nation's free enterprise system.

Underscoring the importance of this function are the numerous and diverse uses to which these vehicles and this equipment are put mass and individual transportation to work and to school . . . over 1½ trillion miles of heavy freight transported annually . . . police and fire protection . . . highway and heavy construction . . . food production on the farms . . . and on and on. The vital and essential everyday functions of our Nation's automobiles, trucks, buses, tractors, combines, and construction equipment are taken for granted. There is no need to belabor the point—

"Wheels" are requisite to our country's basic functioning and well-being. They are essential to our way of life.

The fact that these millions of vehicles and pieces of equipment are inherently mobile and are operating throughout the length and breadth of our Nation presents a logistical problem of substantial magnitude. A motorist with a malfunctioning automobile expects quick repairs whether the difficulty occurs in the Mojave Desert or Times Square. The truck driver requires immediate service in the Great Plains or in the Rocky Mountains. A farmer at spring planting time has little time to wait for tractor repairs.

All this and much more serve to point up the corollary need which is axiomatic—having the right part at the right place at the right time with the proper tools and/or equipment to install it.

It is this demand and insistence by a mobile population for dependable maintenance and rapid repair of its vehicles that makes the automotive aftermarket so vital to every segment of our society.

The enormity and complexity of this automotive service industry is difficult to comprehend fully—though the Federal Government and private researchers seek constantly to define and measure its extent.

The following figures are designated wherever possible by Government SIC numbers to four digits, and that the numbers of such outlets designated are those by the latest U.S. Bureau of Census report made in 1977. All estimated figures are from surveys and statistics gathered by the Marketing Research Department of the Automotive Service Industry Association.

The parts, supplies, tools and equipment required are produced by approximately 1,700 basic manufacturers and remanufacturers who employ some 550,000 men and women. Essentially all of these manufacturers and remanufacturers are independents in that they have no corporate affiliation with the vehicle manufacturers.

It is the independent automotive wholesaler businessmen SIC 5013 who, through their 27,138 outlets (1977 census reports), provide a national network of automotive replacement parts and supplies availability (estimated 27,629 total establishments in 1982). Incidentally, an average SIC 5013 outlet carries an inventory of approximately 26,000 part numbers in order to afford its customers with the ready access which they require.

According to the 1977 U.S. Census Reports, these SIC 5013 Merchant Wholesalers-Automotive sold $20,779,630,000 worth of replacement parts, supplies, tools and equipment. It is estimated that this figure rose to over $26 billion in 1980. The 1977 census advises that these SIC 5013 employed a total of 266,160 people. Estimates place the total employees involved in 1983 at 300,000.

As reported by the 1977 census, most of these SIC 5013 establishments were small businessmen—with only 8,410 establishments realizing over $500,000 in annual gross sales—on balance, 9,653 outlets had annual sales between $200,000 and $499,999—with 9,075 outlets reporting less than $200,000 gross annual volume.

Traditionally, the automobile repair shops, SIC 7538, have represented a substantial customer class for the automotive wholesaler. It will be noted that according to the 1977 U.S. Census Report, there were 154,194 of these establishments (estimated to be 151,210 in 1982), which are, in turn, broken down into subsidiary classifications, SIC 7538—general automobile repair shops (garages); SIC 7531—Top/body repair shops; SIC 7534—paint shops; SIC 7539—battery/ignition, radiator repair, glass replacement, exhaust system service, automatic transmission repair, brake repair, wheel/axle, spring repair, and automobile repair shops NEC. In 1977, these 154,194 SIC 7538 small businessmen provided employment for some 316,302 men and women. These outlets reported gross annual sales in 1977 of $12,770,413,000.

The automotive wholesaler's largest single customer class was that of gasoline service stations, SIC 5541, which, it will be noted, accounted for an ever-increasing amount of the nation's vehicle maintenance and repair work. In 1977, there were 176,465 gasoline service stations with a gross annual sales volume of $56,468,144,000. It is reliably estimated that approximately 22.5 percent of these sales involved repair work including parts and labor. The U.S. Census reports that in 1977 these SIC 5541 gasoline service stations provided employment for 672,673 persons. A substantial majority of their repair parts and equipment is purchased from automotive wholesalers—the seller/purchaser interlock between these two is firm and growing—though there is no corporate relationship and/or control of these service station repair facilities by the vehicle manufacturers.

Another automotive wholesaler's customer outlet for replacement parts are Motor Vehicle Dealers, who also do vehicle repair work. According to 1977 U.S. Census Report, there were 30,793 such SIC 5511 outlets. Estimates for 1982 indicate that number has dropped to 24,488.

In addition to the foregoing installers, it is estimated that there are some 22,000 farm equipment dealers—SIC 5252; and 30,761 tire/battery/accessory dealers—SIC 5531. The Bureau of Census does not report the number of department service facilities. Suffice it to say that they already number in the thousands and are increasing.

Further, it should be noted that there are approximately 42,000 in-house repair facilities servicing the larger fleets required to haul and deliver merchandise and produce for our nation's farms and industry.

The total of the foregoing retail repair and installer operations is approximately 485,000 and it may safely be said that it is these establishments which accommodate the bulk of our country's repair work.

While no two sources may agree to the exact digit on the size of any one segment of the automotive aftermarket, there is no questioning the fact that the total industry is an integral part of this country's lifeblood. Any threat to its security threatens the total U.S. economy.

The health of any U.S. industry that totals nearly 500,000 establishments, employs more than 1,800,000 people and has gross annual sales of over $95,000,000,000 has to be of prime concern to our Government.

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES– Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Dichlorodiphenyl trichloroethane	50293	DDT 4,4'DDT	1	1,2,4	U061	X	1(0.454)
1,1-Dichloroethane	75343	Ethane, 1,1-dichloro- Ethylidene dichloride	1*	2,4	U076	C	1000(454)
1,2-Dichloroethane	107062	Ethane, 1,2-dichloro- Ethylene dichloride	5000	1,2,4	U077		***
1,1-Dichloroethylene	75354	Ethene, 1,1-dichloro- Vinylidene chloride	5000	1,2,4	U078		***
1,2-trans-Dichloroethylene	156605	1,2-trans-Dichloroethylene Ethene, trans-1,2-dichloro-	1*	2,4	U079	C	1000(454)
Dichloroethyl ether	111444	Bis (2-chloroethyl) ether Ethane, 1,1'-oxybis[2-chloro-	1*	2,4	U025		#
2,4-Dichlorophenol	120832	Phenol, 2,4-dichloro-	1*	2,4	U081	B	100(46.4)
2,6-Dichlorophenol	87650	Phenol, 2,6-dichloro-	1*	4	U082	B	100(46.4)
2,4-Dichlorophenoxyacetic acid, salts and esters	94757	2,4-D Acid 2,4-D, salts and esters	100	1,4	U240	B	100(45.4)
Dichlorophenylarsine	696286	Phenyl dichloroarsine	1*	4	P036		***
Dichloropropane	26638197		5000	1		C	1000(454)
1,2-Dichloropropane	78875	Propylene dichloride	1*	2,4	U083	C	1000(454)
Dichloropropene - Dichloropropene mixture	8003198		5000	1		B	100(45.4)
1,3-Dichloropropene	542756	Propene, 1,3-dichloro-	1*	2,4	U084	B	100(45.4)
Dichloropropene	26952238		5000	1		B	100(45.4)
2,2-Dichloropropionic acid	75990		5000	1		D	5000(2270)
Dichlorvos	62737		10	1		A	10(4.54)
Dieldrin	60571	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene.	1	1,2,4	P037	X	1(0.454)
1,2:3,4-Diepoxybutane	1464535	2,2'-Bioxirane	1*	4	U085		#
Diethylamine	109897		1000	1		C	1000(454)
Diethylarsine	692422	Arsine, diethyl-	1*	4	P038		***
1,4-Diethylene dioxide	123911	1,4-Dioxane	1*	4	U108		#
N,N'-Diethylhydrazine	1615801	Hydrazine, 1,2-diethyl-	1*	4	U086		#
O,O-Diethyl S-[2-(ethylthio)ethyl]phosphorodithioate	298044	Disulfoton	1	1,4	P039	X	1(0.454)
O,O-Diethyl S-Methyl Dithiophosphate	3288582	Phosphorodithioic acid, O,O-diethyl S-methylester	1*	4	U087	D	5000(2270)
Diethyl-p-nitrophenyl phosphate	311455	Phosphonic acid,diethyl p-nitrophenyl ester	1*	4	P041	B	100(45.4)
Diethyl phthalate	84662	1,2-Benzenedicarboxylic acid,diethyl ester	1*	2,4	U088	B	100(45.4)
O,O-Diethyl Q-pyrazinyl phosphorothioate	297972	Phosphorothioic acid, O,O-diethylO-pyrazinyl ester	1*	4	P040	B	100(45.4)
Diethylstilbestrol	56531	4,4'-Stilbenediol, alpha,alpha'-diethyl-	1*	4	U089		#
1,2-Dihydro-3,6-pyridazinedione	123331	Maleic hydrazide	1*	4	U148	D	5000(2270)
Dihydrosafrole	94586	Benzene, 1,2-methylenedioxy-4-propyl-	1*	4	U090		#
Diisopropyl fluorophosphate	55914	Phosphorofluoridic acid,bis(1-methylethyl) ester	1*	4	P043	B	100(45.4)
Dimethoate	60515	Phosphorodithioic acid,O,O-dimethyl S-(2(methylamino)-2-oxoethyl) ester.	1*	4	P044	A	10(4.54)
3,3'-Dimethoxybenzidine	119904	(1,1'-Biphenyl)-4,4'-diamine,3,3'dimethoxy-	1*	4	U091		#
Dimethylamine	124403	Methanamine, N-methyl-	1000	1,4	U092		##
Dimethylaminoazobenzene	60117	Benzenamine, N,N-dimethyl-4-phenylazo-	1*	4	U093		#
7,12-Dimethylbenz[a]anthracene	57976	1,2-Benzanthracene, 7,12-dimethyl-	1*	4	U094		#
3,3'-Dimethylbenzidine	119937	(1,1'-Biphenyl)-4,4'-diamine,3,3'-dimethyl-	1*	4	U095		#
alpha,alpha-Dimethylbenzylhydroperoxide	80159	Hydroperoxide, 1-methyl-1-phenylethyl-	1*	4	U096	A	10(4.54)

NEWSWEEK/JULY 18, 1983

NATIONAL AFFAIRS

Pennsylvania Goes After a Waste Hauler

When they first saw the documents nearly two years ago, Pennsylvania officials suspected something was wrong. The records—shipping manifests for truckloads of highly toxic chemical wastes—showed that a Pennsylvania trucking firm had hauled toxic cargoes from New Jersey factories to an unlikely destination—an address in a residential neighborhood in Scranton, Pa. The address, investigators discovered, was that of the home of W. A. Lavelle III, who owned the trucking firm. After an 18-month investigation, prosecutors last week announced that they are planning to file felony racketeering charges against Lavelle, alleging that he illegally dumped 3.6 million gallons of hazardous chemicals into a network of abandoned coal-mine tunnels beneath Scranton.

The case against Lavelle marks the first time prosecutors have used anti-racketeering laws against a toxic dumper. Under most federal and state environmental laws that cover offenses committed before 1980, illegal dumpers are subject only to misdemeanor charges. But the racketeering law is a harsher weapon: if convicted, Lavelle faces a maximum penalty of 40 years in jail, a $50,000 fine and civil damages on two felony counts. "We hope that this [case] can serve as a model for prosecutors around the country," says Deputy Attorney General Keith Welks. To win conviction, prosecutors will have to establish that Lavelle engaged in a pattern of racketeering activities including conspiracy and theft.

Garage Drain: According to the grand jury that investigated the case, Lavelle's company, W.A. Lavelle and Son, obtained waste-hauling contracts from eight companies—including Tenneco, National Can and SmithKline. Beginning in 1976, Lavelle allegedly hauled tanker loads of industrial wastes to a truck garage he owned on Keyser Avenue in Scranton. Prosecutors say the driver, Lavelle or his son, Billy, would attach a hose to the tanker and empty the contents into a drain in the garage floor. According to the grand jury, Lavelle dumped 581 truckloads—more than 3.6 million gallons—into the mines and also disposed of nearly 10,000 drums of hazardous wastes, pouring the wastes down the garage drain or burying drums in a nearby landfill. Prosecutors charged that Lavelle transferred $580,000 in profits on the operation to a second corporation, Lavco Inc.

The witches' brew of chemicals that poured into the Scranton coal mines included three that are considered carcinogenic—among them, vinyl chloride, which causes lung cancer—and 14 that are categorized toxic. But environmental officials contend that Scranton residents are in no apparent danger. "This is not a Love Canal situation," says R. Harry Bittle, deputy secretary of Pennsylvania's department of environmental resources. Investigators say the chemicals dumped into the abandoned mines slowly spilled into an underground river, and they are confident that the hazardous wastes were so diluted that they posed no danger. If true, that may be only a fortunate coincidence. "When [Lavelle] dumped all those chemicals he wasn't worrying about the dilution ratio," Bittle says. "His intent was to get rid of the wastes the fastest way possible."

WILLIAM D. MARBACH with JOSEPH A. CINCOTTI in Harrisburg, Pa.

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION,
Chicago, Ill., June 20, 1983.

Mr. MATTHEW STRAUS,
EPA (WH 565-B),
Washington, D.C.

DEAR MATT: ASIA [Automotive Service Industry Association] is the automotive world's largest and most comprehensive organization with its membership encompassing more than 8,500 independent automotive wholesalers, warehouse distributors, heavy duty parts and equipment distributors, automotive electric service distributors, manufacturers' representatives, manufacturers and remanufacturers of replacement parts and tools, equipment chemicals, paint, refinishing materials, supplies and accessories. The overwhelming majority of the members of this vast industry are small independent business establishments.

ASIA feels very strongly that the small quantity generator study ignores one very substantial link in the entire issue of waste management, that of the transporter. The generator is being asked to identify, list, manifest, take responsibility for the wastes he generates. The final disposal sites are being quizzed on their handling of the wastes, but the transporter to whom the waste is being entrusted is being ignored. A generator, in good faith, could and has turned his identified waste over to a transporter and then ended up being held liable and fined for the transporters' incorrect handling of the waste.

It was at the instigation of the waste hauling industry that this issue became visible. Worker safety was at issue. We have no qualms about letting the hauler know what he is carrying (assuming we have the ability to identify the substances) but we should not be responsible for how he handles the waste after it leaves our premises.

At some point, this segment of the chain must assume some responsibility. If through regulation the hauling industry will have "carte blanche" for their services, we in turn should have some assurances that through the same regulatory scheme, we are indeed getting what we will have to pay for. Especially since we will be bound by regulation to use "special" services which through regulation supposedly only "they" will be able to provide. To ignore the waste hauling industry in this study is an inexcusable omission.

Waste management is becoming a lucrative business because regulation is making it so. Unfortunately, as with many lucrative enterprises which promise great monetary return the lure is too great for "unsavory" elements to ignore. We as potential customers must be protected as well. Somewhere in the study the waste hauling industry must be questioned regarding its practices.

In the past, generators have in good faith given their waste, labeled generically, to haulers who have incorrectly disposed of it. Currently it is not in our purview to tell our haulers where they should dispose of their cargo. If he does so incorrectly, why should we be held responsible? An example of just such a situation is attached.

We strongly urge EPA and Abt Associates, Inc. to reconsider the survey's scope and to include this part of the total universe. It is crucial to the reasonable handling of the problem.

Sincerely,

RICHARD F. TURNEY,
Washington Representative.

Enclosure.

HAZARDOUS WASTE—DUMPING WASTE THINNER IS A COSTLY PROBLEM

Two Baltimore car dealers were recently fined $5,000 and $3,500 respectively for improper disposal of hazardous waste. Drums of waste paint thinner hauled from their shops were found in a Maryland landfill, complete with their names attached. Each had unwittingly broken a federal and state law that prohibits the dumping of such waste.

The drums were transported by "an itinerant hauler," according to Paul Thompson, the acting regional chief of the enforcement program in the Industrial Waste Division of Maryland's Department of Health and Mental Hygiene. The dealers involved didn't even know they were "small generators of hazardous waste," said Joe Carroll, vice president of the Automobile Trade Association of Maryland, let alone the fact that they had committed a crime.

Such is the thicket surrounding the Resource Conservation and Recovery Act (RCRA), a federal law that requires companies generating more than a thousand kilograms (2,200 lbs.) of hazardous waste a month to keep careful record of who hauls their waste along with proof the waste was deposited in the RCRA-approved site.

Anyone who generates less than a thousand kilograms in a month is considered a "small generator of hazardous waste" and exempt from the law. But that didn't let those Baltimore dealers off the hook because the catch-22 is there's no place to put waste paint thinner. It can't be flushed down the drain. It can't be poured on the ground. And it can't be put on a landfill.

Maryland's enforcement authorities have been zealously tracing violators, particularly those whose waste turns up at state landfills. "We have a 100-percent success rate at this point," boasts Thompson. "At every site, we found out who did it."

No wonder Maryland Governor Hughes has put five extra state police on a task force along with three attorney generals to hasten prosecutions. The state's health department has hired fifty inspectors to check generators of hazardous waste at their source. "Just because it's a small quantity does not make it less hazardous," said Thomas Battle of the Waste Management Administration.

Meanwhile, Senator Chafee (R-R.I.) is spearheading a bill to bring small generators of hazardous waste (that means every body shop) under federal regulation. Chafee's bill would lower permissible ouput of waste to 100 kilograms (220 lbs.) per month or even to zero before the federal watchdog steps in. That means more paperwork for everybody if you stop to realize a single 55-gallon barrel of waste thinner weighs about 350 lbs.

Lobbyists for the small generator community are working to reach a compromise that would keep the government from intervening, according to Virginia Bliss, the associate Washington representative for Automotive Service Industry Association (ASIA). For example, she explained that haulers need to know exactly what they are transporting. Otherwise, there is a danger of corrosive material mixing with inflammables and, when compacted, posing a real threat. "A shop may have to hire someone to inventory the garbage," she said, suggesting that one option might be to put waste thinner back in its original container when its ready for disposal.

If that alternative is not accepted, body shop owners will be in for the same bureaucratic hassle as larger waste producers. That means proving where wastes has been dumped. Maryland law requires a three-part manifest or form which must be signed by the generator of hazardous waste (the shop), the hauler who takes it away (and who must have an EPA identification number), and the RCRA-approved site where it is dumped. Each statement goes back to the state, but the shop owner must have a copy of all three in case an inspector comes by. As Bliss put it, "The paper trail is incredible." If the law is not more realistic, she predicts, "there will be more midnight dumping."

Hazco, Inc., a brand-new member of the Washington Metropolitan Auto Body Association, was recently founded in an effort to provide a waste removal service. WMABA board member Bob Whittlesey is chairing a committee to look into the dilema body shops face. WMABA cautions all shops to be careful about who hauls waste thinner and where they take it.

While the paper trail of legal documentation is long, the penalty for breaking the law is a stiff one. On the federal level, look for fines up to $10,000 for civil penalties and up to $25,000 for criminal violations with one-year imprisonment for the first offense.

In Maryland, the penalties are even steeper with civil fines of $10,000 per day and possible criminal felonies that carry fines of $100,000 or five years in jail for first-timers. That makes fines for roadside littering or throwing a gum wrapper out the car window seem like kid's stuff.

WHOLESALER'S CLUTCH SERVICE CO.,
St. Louis, Mo., July 18, 1983.

Mr. RICHARD F. TURNEY,
Courtney, McCamant & Turney,
Washington, D.C.

DEAR DICK: Please excuse my delay in getting this letter to you as promised before now.

As you know the greater portion of Wholesaler's Clutch Service Company's business is the rebuilding of automotive type clutch units. Our firm began operation June, 1936. June 1983 is the beginning of our 47th year of continuous business operation. Our net sales of rebuilt clutch units for the fiscal year ending September 30, 1982 was $1,258,950.00. Average employment for fiscal 1981–1982 was twenty nine full time employees. Yes, we are truly a "Small Business" company. As a small business we have a small staff which requires most employees being responsible for several different functions.

As a rebuilder, we are proud to be a part of an industry which, since its inception, has and continues to be dedicated to the conservation of the basic resources of iron, steel and energy. During the rebuilding process, as in all processes of manufacturing and repairing operations, various waste materials and scrap are generated and must be discarded.

A survey of our waste and scrap materials reveals that such consists of the following: cardboard; used copper rivets; non-reusable iron, steel, and aluminum parts: paper; sludge from our vapor degreaser; dirt and dust from our Wheelabrator, grinders and clutch deliner machine; waste oil and grease; sludge from our coolant cleaner-separator device used with our Blanchard wet grinder; non-reusable clutch facings; dirty solvent used for washing dirt and grease from various components parts. The total weight of all of this waste material certainly exceeds 1,000 kilograms (2,200 pounds) each month. It is obvious from the description of this waste material that only a very small portion would be classified as hazardous waste material according to the federal and state hazardous material listings.

Since none of our personnel are chemists nor do we have a staff chemical engineer it is impossible for us to determine what, if any, of the generated waste is, in fact, hazardous according to the federal and state regulations. Our files which contain various communications and regulations from both the federal and state agencies concerning hazardous waste is more than an inch thick. The waste generated each month, that we feel may be hazardous, is far less than the 1,000 kilogram exemption allowed small generators.

Should the exemption for small quantity generators be lowered to 100 kilograms per month or be completely eliminated, our firm would suffer a hardship of excessive additional expense. The additional expense occurs due to the following: services of a qualified certified chemical laboratory; purchase of special containers; clerical labor necessary in properly processing and filing of the required federal and state forms and data; registering with both the federal and state E.P.A. agencies; registration and head tax; the storage of records; additional required legal services and advice; additional labor necessary in identifying and weighing the hazardous waste (again, if any) as well as properly packaging such waste material. We have probably overlooked many additional expense items that could occur. Taking everything into consideration our conservative estimate of the additional expense required to conform to the agency regulations, should the small generator exemption be lowered or eliminated, would be approximately $15,000.00 to $20,000.00 each year. This additional expense would present a serious hardship to the cash flow of our small business. Certainly this burden would of necessity be passed on to the eventual users of our product, the consumer.

In the event that the small generator exemption is reduced or completely eliminated we feel that a situation might arise which could put our firm in a position of unfair competitive disadvantage. Our position would be to abide, to the best of our ability, by all of the rules and regulations imposed by the E.P.A. agencies of both the federal and state governments. Policing and verification of these regulations would be, in our opinion, a monumental task if not prohibitive due to the necessary increased budget requirement and additional manpower required. Such a situation may well lead to the innocent evasion or the willful disregard of the regulations by competitors.

We feel that this subject should be studied in depth before an arbitrary change in the regulations is promulgated. Certainly we do not want nor need a repeat of the debacle created by the "over kill" O.S.H.A. regulations which were created without an in depth study of their probably consequences. Nor do we want a repeat of the devastation of our type of small business as occurred to the formaldehyde based home insulation business. The destruction of this small business was a direct result of opinions and regulations based on erroneous assumptions and not on scientific fact which an "after the disaster," indepth study revealed.

Our feeling is that a complete and adequate study of the effects on the small generator of hazardous waste should be made before lowering or eliminating the small generator exemption.

Dick, I hope this information will be helpful to you in your efforts to aid all of the small hazardous waste generators in our country. If you feel that I can contribute in some way to your efforts please feel free to call on me at anytime.

Cordially,

ROBERT C. KREUTZER,
Executive Vice President.

Mr. SKELTON. Mr. Rapp.

TESTIMONY OF JULES RAPP, EXECUTIVE VICE PRESIDENT, ADHESIVE AND SEALANT COUNCIL

Mr. RAPP. Good morning, Mr. Chairman and members of the committee. My name is Jules Rapp, and I am executive vice president of the Adhesive and Sealant Council, a trade association of manufacturers of adhesive and sealant products.

Our members are a mix of large, medium, and small companies, all of whom sell to literally thousands of small companies that are consumers of adhesive and sealant products. It is these small companies, both inside and outside our membership, that are the focus of our remarks this morning.

We are here today to address section 3 of H.R. 2867, that section that would legislatively remove certain regulatory exemptions to coverage under the Resource Conservation and Recovery Act that are now applicable to the so-called small quantity generators of hazardous wastes. We believe that enactment of this provision would be premature, because neither Congress nor the Environmental Protection Agency has sufficient factual data to conclude that the burdens imposed by the removal of the exemption for the small quantity generator in fact are justified by the expected environmental benefits.

From a small business point of view, we believe that the result of removing the small quantity generator exemption would be to create burdensome paperwork. The development of manifests, compiling of records, and filing of reports with EPA require an expenditure of man-hours by small businesses that is totally separate from the costs of hazardous waste treatment, storage, or disposal. While the chemical industry has gained a familiarity with various aspects of regulatory compliance, many of our members' customers are entirely unsophisticated in this area and do not have available trained personnel to handle the increased recordkeeping and reporting responsibilities.

Furthermore, compliance with new regulatory responsibilities can have a ripple effect on other aspects of business, where management decision regarding product lines are affected by higher costs—to the manufacturer and the customer—making discontinuance of a product line a possible option flowing from an assessment of these costs. The disruption is carried further as consumers of this now discontinued product must search for alternative products.

We think the issue boils down to the fact that the Government—both Congress and the EPA—needs more information before making a decision that can have far-reaching effects on small businesses.

We need to know how much hazardous waste is escaping regulation and is being improperly disposed. EPA earlier had estimated that 99 percent of all hazardous wastes are covered and controlled under the current regulatory scheme.

We need to know how small businesses currently handle hazardous wastes and what their costs would be, were they fully regulated.

We need to know how many businesses would be affected by full regulation of small quantity generators of hazardous wastes. Is

EPA equipped to administer and enforce a law that could potentially encompass hundreds of thousands of additional businesses?

EPA has announced publicly its intentions to survey numerous small businesses in order to obtain answers to some of these questions. On the basis of this survey, the agency intends to consider the promulgation of regulations that would attempt to respond to the issues raised in the survey. The target date for these regulations is not far from the deadline dates for EPA action set out in section 3 of H.R. 2867.

In conclusion, we believe that good regulation, or good legislation, can only be accomplished after gathering the relevant facts and making a determination of whether increased regulatory burdens will be justified by the benefits of increased regulation. In this case, the environmental benefits from gaining a more absolute control over the last increment of hazardous wastes. EPA appears to be on the right track in gathering information necessary for making a decision on whether increased regulation of hazardous wastes may be necessary. We ask that the Congress defer action on section 3 of H.R. 2867 until EPA has had the opportunity to assemble all of the facts necessary to make a sound, cost-justified regulatory decision.

Thank you for allowing our association to be heard this morning. I will be happy to try to answer any questions you may have.

Mr. SKELTON. We certainly appreciate it.

Mr. Hiler, questions to the panel?

Mr. HILER. Thank you, Mr. Chairman.

Mr. Carlson, if the full RCRA were to fall upon small business because of the hammer provision, from your experiences, what do you think the chances are that the business would comply or be able to?

Mr. CARLSON. I think they would have a very difficult time. If they have the technical personnel, it would still take a good deal of their effort and time just to understand the provisions and figure out where they stand with them. If they don't have the technical personnel, they are going to have to go outside the company, or maybe depend on a trade association or something to inform them. So I would look at it as an uphill struggle. The EPA is finding there are many companies that are subject to the regulations right now that are ignoring them. I think you are just going to compound the problem by lowering them.

Mr. HILER. Do you think we face a problem that, if the regulations become too burdensome, that there will just be outright ignoring of them and have incidents of midnight dumping?

Mr. CARLSON. I think that, basically, business would like to comply and be in compliance, but they just may not be able to for one reason or another.

Mr. HILER. Mr. Glauberman, you mentioned something. I believe you were saying in your testimony that the provision which says that you can only store up to 90 days in section 3 or 180 days in the Shelby-Lent proposal doesn't really address the main problem, which is when you have to dispose of this waste, it is really a quantity that you are trying to dispose of; that the timeframe really hasn't as much to do with it as the overall quantity; and if you are required to dispose of what could be a relatively small quantity in

a mandatory timeframe, then that is going to substantially increase your cost. Does that accurately describe your testimony?

Mr. GLAUBERMAN. Correct. If the timeframe is, say, 180 days, obviously, you have the choice of disposing of it before the 180 days or then filing for the storage permits. So the intent then would be to dispose of it before the 180 days, and you would have the cost of disposing small quantities, perhaps a drum or two, as opposed to a year's accumulation.

Mr. HILER. The current law, as I understand it, says that the clock starts ticking after you get 1,000 kilograms of waste for on-site storage?

Mr. GLAUBERMAN. Correct. Yes, sir.

Mr. HILER. Does that seem to work well?

Mr. GLAUBERMAN. It is palatable, yes. It works for the small generator because he can invariably stay at that level or below.

Mr. HILER. What do you think this bill would cost you if it were to be implemented?

Mr. GLAUBERMAN. What it would cost me if it were implemented?

My first reaction, if this were implemented, would be to examine those phases of our operation which would cause us to fall under RCRA, and then evaluate as to whether or not we want to continue those operations.

We operate our business with approximately six or seven technical people. These people are involved in OSHA and the Consumer Product Safety Commission, EPA and everything else. If I had to dump that inch-and-a-half book over there on some of my people, it would be paramount to removing them from the activities of the company.

I would look at each particular product or operation that would put me under this regulation and make a decision as to whether I would shut down that operation or dispose of it or find someone else who was willing to produce it and move it out of my area of manufacturing.

Mr. HILER. Thank you.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. Thank you, Mr. Chairman.

I would like to direct my question to Mr. Turney. Mr. Turney, it appears from your statement that you are opposed to both the Florio and the Shelby-Lent amendments; am I correct?

Mr. TURNEY. At this point in time, yes, sir.

Mr. TORRES. At this point in time. In other words, neither are acceptable to you?

Mr. TURNEY. At this point in time, our biggest problem, as I said before, is identification, and 100 or 1,000 for the automotive aftermarket and the independent garage industry is basically immaterial. The fact is, we don't know what is there and, until that study is completed and we have got that information to deal with, we can't take further steps. We will be in noncompliance automatically.

Mr. TORRES. Some of the groups that have testified in this vein, environmentalist groups, you accuse in your statement of using scare tactics. Don't you believe that they, though, have come to some form of compromise in being able to understand that both

Florio and Shelby-Lent could be a form of compromise? You don't feel that you are at that point yet?

Mr. TURNEY. I don't feel that our industry is at that point. The Shelby-Lent language is something that we may very well end supporting as we go down the road. If this committee doesn't take the ball and run with something stronger, we may end up supporting Shelby-Lent.

But Shelby-Lent at 100, or Mr. Florio's bill at 100, is legislation that is based on supposition rather than fact, and it is based on scare tactics. Initially, when RCRA was to be reauthorized, it was a simple reauthorization bill. It had none of the onerous aspects to it until it suddenly popped up like Aphrodite out of the mist. Last year, we suddenly found these figures. The 25-kilogram reporting, there is no way we can possibly comply with that.

Mr. TORRES. As you know, the Shelby-Lent amendment does talk about allowing EPA to finish their study; are you not willing to?

Mr. TURNEY. We agree, as far as allowing them to finish the study. That is what we want. We want that study completed before we run into manifesting, before we run into the 25-kilogram notification. We have no idea whether we have got 25 kilograms of hazardous waste or not.

We don't mind complying with the law. We don't mind telling the waste hauler what we are giving them, if we know what we are giving them. Unfortunately, our problem is we have such a diversity of products, and they are all chemical compounds, used in the automotive industry, in the body shop industry, in the mechanical shop industry, and the service station industry, it is a myriad of products. It is not a single flow-waste stream that you can take it once and say, "Here it is; analyze that. That is what it is today, and that is what you are going to have tomorrow." It is not that way. Unfortunately, what you have today is not what you are going to have tomorrow.

Mr. Hiler, I would like to comment on the storage question. The fact of the size on storage is, where are we going to put it? We don't have the physical facilities for the kind of storage, so that is also a very serious problem for us as well. Although, we are going to have problems getting rid of it even if we can store it.

Mr. HILER. I think the storage part—if I may just interrupt my colleague to respond to that—I think that the storage provision probably isn't as significant for you as it is for someone else who has a practice of storing significant amounts of hazardous waste until it gets to a load. The service station or the body shop, obviously, is not goint to be storing the 2,200 pounds of some type of hazardous waste material.

Mr. TURNEY. We just don't have the physical capacity to do so.

Mr. TORRES. Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Bedell.

Mr. BEDELL. I want to thank you for your testimony.

I am delighted, Mr. Carlson, that we have somebody here with some experience in this effort.

How long have you been disposing of his hazardous waste under regulations similar to what we are discussing here?

Mr. CARLSON. We have been disposing of hazardous wastes since the regulations have come into effect.

Mr. BEDELL. How long has that been?

Mr. CARLSON. Well, we have been disposing of wastes since we have started some of these processes. Our company was started back in 1902. I would guess some of these processes date back to the 1940's.

Mr. BEDELL. How do you handle this waste? Do you haul it in drums?

Mr. CARLSON. We have hauled it away in drums, and also as bulk.

Mr. BEDELL. When you haul it in drums, are the drums returned to you or do you have to buy new drums?

Mr. CARLSON. They go with the waste.

Mr. BEDELL. They don't come back?

Mr. CARLSON. They don't come back, no.

If they are incinerated, the incinerator has either reconditioned or actually incinerated the whole drum, contents and all. Some wastes we have sent to a secure landfill, and those obviously were buried with the waste.

Mr. BEDELL. I presume incineration is the most expensive method, is that right?

Mr. CARLSON. Most expensive, but also the most preferable. Most of our wastes are organic insecticides; many of them are not listed wastes. Our feeling is it is going to end our problem.

Mr. BEDELL. Is most of the waste incinerated, or is most of it landfilled?

Mr. CARLSON. I would guess that the majority of the wastes that we dispose of may be incinerated. If we can keep our waste solvents isolated, we sometimes have sent those out as a boiler feedstock as a nonchlorinated waste solvent.

Mr. BEDELL. You say that your costs range from 40 cents to $4 a gallon.

Mr. CARLSON. We have sent out some loads where it was fairly clean solvent, and that was sent for boiler feedstock. The price that we had to pay to incinerate some wastes was $4 per gallon.

Mr. BEDELL. Would the normal incineration cost be about $4?

Mr. CARLSON. It varies from incinerator to incinerator, it depends on what the contents are. If you have some chlorinated compounds, the price goes up.

Mr. BEDELL. What would be an average cost for incineration?

Mr. CARLSON. I would guess that $4 is maybe even a low figure per gallon as a maximum charge.

Mr. BEDELL. It would be around that for incineration.

Mr. CARLSON. We are right in the midst right now of getting another load together for shipment, so I don't have any current costs.

Mr. BEDELL. How does one determine whether or not the waste has to be incinerated?

Mr. CARLSON. As I say, unless we have some cleaner solvents, everything we have sent——

Mr. BEDELL. Who determines whether or not the waste has to be incinerated? Do you decide? I would think you would want to do it the best way you could.

Mr. CARLSON. Yes; we evaluate the waste to see what the content is. If it has an insecticide content, we have made a corporate deci-

sion that we would, rather than go to burial and risk a superfund problem in the future, we would go to incineration.

Mr. BEDELL. You show that 5,600 gallons would cost $10,000 for transportation and disposal.

Mr. CARLSON. Right.

Mr. BEDELL. The problem I have is you say that most of your waste is incinerated at a cost of $4 per gallon. However, I calculate less than $2 for the disposal and hauling of 5,600.

Mr. CARLSON. The range of our shipments have been 2,500 to 5,600 gallons.

Mr. BEDELL. Right.

Mr. CARLSON. When we shipped out 5,600 gallons, I would assume most of that went as a boiler feedstock.

Mr. BEDELL. The problem is your 2,500 runs from 4,000, it would indicate also. Do yo understand my question?

Mr. CARLSON. Yes.

Mr. BEDELL. Those figures don't match, as near as I can tell.

Mr. CARLSON. $4 times 2,500 gallons is about $10,000.

Mr. BEDELL. I know we are short on time, but you say that 2,500 to 5,600 gallons could cost between $4,000 and $10,000 for transportation and disposal. In each of those cases, that is less than $2 per gallon for transporation and disposal. If indeed your disposal averages around $4, then it doesn't make sense that your transportation and disposal would be less than $2. Do you understand my point?

Would you want to try to answer that in writing so I can understand?

Mr. Carlson, we are short on time. If you can find an answer to that, Mr. Carlson, I would appreciate it.

Mr. CARLSON. I will try to find it.

Mr. SKELTON. If you would supply that for the record within a week, we would appreciate it.

Mr. CARLSON. OK.

[The information requested of Mr. Carlson follows:]

McLAUGHLIN GORMLEY KING COMPANY
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July 28, 1983

The Honorable Ike Skelton, Chairman
Subcommittee on Energy, Environment, and
Safety Issues Affecting Small Business
UNITED STATES HOUSE OF REPRESENTATIVES
H2-569, House Annex 2
Washington, DC 20515

Dear Congressman Skelton:

This letter is in response to a question posed by Congressman Berkley Bedell concerning testimony I gave before your subcommittee on Energy, Environment, and Safety Issues Affecting Small Business on July 26, 1983. Congressman Bedell's question was directed at the figures I gave for costs of hazardous waste disposal and sizes of shipments -

$.40 to $4.00-per-gallon unit charge,
2,500 to 5,600-gallon shipment size,
and $4,000 to $10,000 shipment and disposal costs.

Congressman Bedell's question referred to the fact that a 5,600-gallon shipment of waste that cost $4.00 per gallon to transport and dispose would result in a $22,400 total expense - outside of the range given in testimony.

Some confusion may have been created by presenting disposal costs and volumes in ranges. The ranges merely indicate the span of costs per unit MGK Company has paid or been quoted, the span of shipment sizes MGK has made, and the span of costs for these shipments. Also, I would like to clarify that an individual shipment may contain hazardous waste that will be disposed of by more than one procedure. In other words, a 4,000-gallon shipment may include 30% hazardous wastes for boiler feedstocks, 50% hazardous wastes for high temperature incineration, and 20% hazardous wastes for a secure landfill. Last, MGK has found that incineration costs can vary depending on the wastes. A high btu content toluene waste cost MGK about $1.60 per gallon to incinerate while we have received a quote of $4.00 per gallon to incinerate a chlorinated insecticide now in storage.

I hope this explanation clarifies the data presented and answers Congressman Bedell's question. My statement that MGK preferred the incineration alternative was not meant to imply that all of our hazardous wastes are incinerated at a cost of $4.00 per gallon. In fact, MGK is constantly monitoring the recycling, treatment, and disposal areas to find the most environmentally sound, as well as

cost effective procedures to handle our hazardous wastes. At this time incineration meets these requirements best.

An additional point that was inadvertently deleted in my testimony concerns the new building MGK constructed to temporarily store drums of hazardous waste. This building cost $40,000 to build. Although this building presently meets MGK's needs, it is relatively small and holds less than 100 drums.

Thank you again for the opportunity to testify before your sub-committee. I hope that my comments will be helpful in considering the effects on small businesses of further legislation of hazardous wastes.

Yours truly,

MC LAUGHLIN GORMLEY KING COMPANY

David J. Carlson

David J. Carlson
Environmental Control Supervisor

DJC/w

cc: The Honorable Berkley Bedell
UNITED STATES HOUSE OF REPRESENTATIVES
Room 2459
Rayburn House Office Building
Washington, DC 20515

cc: The Honorable John Hiler
UNITED STATES HOUSE OF REPRESENTATIVES
Room 316
Cannon House Office Building
Washington, DC 20515

cc: Mr. Larry Gallo
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION
Suite 1120
1001 Connecticut Avenue, N.W.
Washington, DC 20036

Mr. SKELTON. Ladies and gentlemen, thank you so much. I appreciate you coming. Some of you came from long distances.

Do you have a comment, sir.

Mr. ENGEL. Mr. Chairman, I neglected to ask that our statement be included in the record in full and in complete detail.

Mr. SKELTON. It is not necessary. As I suggested a few minutes ago, all statements will be included in the record, plus, of course, the oral comments that were made.

Thank you so much.

We are overtime, but we do have one very quick witness, I understand, John F. Mulholland of Tracrep Corp.

You are about to hear something in 25 words or less; is that not correct?

TESTIMONY OF JOHN F. MULHOLLAND, TRACREP CORP.

Mr. MULHOLLAND. Thank you, Mr. Chairman. It may be one of the more important areas because it resolves problems, and that is what we are here for.

I think you have a copy of my statement for the record.

Mr. SKELTON. Yes, we have one.

Mr. MULHOLLAND. I will delete reading it. I would just like to address a few issues that are of paramount importance in regard to hazardous waste and materials.

First of all, I would just say that Tracrep is exactly what it implies. It is the tracking and reporting of hazardous materials from the generator to the receiver. One of the most important things is verification that the material has been manifested, has been shipped, and has been received. The Tracrep system is such a system that it can verify the fact that it has gone from the originator to the intended destination and has been destroyed, which is one of the major problems today.

In conjunction with that, once the product is manifested, it goes into our system that can give response groups complete knowledge as to what material may in transit.

The Washington area, in the last week, experienced a tragic accident which is not unusual among accidents across the country. As you know, it happened on Cabin John Bridge. A few men lost their lives, both of whom were in the truck. The response teams came aboard, and they did not have any idea what materials were on that vehicle. It took them in the neighborhood of 3 to 3½ hours to ascertain the fact that it was not a hazardous material or an explosive area.

In the case of the Tracrep system, the responding sheriff, State police, or firemen, on arrival at that scene, could have readily made one phone call, interrogated their dispatcher who, in turn, would make one phone call, and would know within 5 minutes exactly what that vehicle carried in regard to hazardous waste material. In this case, they would know it was not one of those and could proceed accordingly.

Can you imagine what could have happened on the beltway with those thousands of people, and all those vehicles at a complete standstill, had that been something more dangerous?

What we are saying is, we have a system that responds to that, that gives the emergency response people complete knowledge, on-site, as to what it is and what can be done.

If you will read the testimony, you will find that not only do we respond to that area, but we respond to the 10 major programs that have just been produced and given to the Department of Transportation by the National Academy of Sciences, that are very explicit as to what should be done in the controls of these materials. We respond and answer to nine of those. That system is available today. Within the next 30 to 40 days, we expect to be on a system that is nationwide.

Thank you.

[Mr. Mulholland's prepared statement follows:]

PREPARED STATEMENT OF JOHN F. MULHOLLAND, TRACREP CORP.

Mr. Chairman, members of the subcommittee, I am John F. Mulholland, testifying on behalf of the Tracrep Corp., and Mr. Robert B. Cooper, the founder and developer of the Tracrep system.

This subcommittee, and others like it in the Congress, have heard numerous accounts of horror stories relating to the improper handling, transportation, disposal and use of disposal sites as relates to hazardous waste and materials. Every congressional subcommittee on health and safety, transportation, victim compensation, and potential legislation, such as H.R. 2867, have heard and read reams of redundant testimony stating the ills and problems related to hazardous waste and materials. However, the major question is: How do we prevent these problems in the future?

The National Academy of Sciences just released the National Research Council Special Report 197 that stresses a list of ten most critical issues that must be addressed in the transportation of hazardous material if these problems are to be contained and eliminated. Our program Tracrep, addresses and satisfies nine of the ten issues laid down by the Academy, and is now available to Federal and State agencies, originators, transporters and receivers. The Tracrep system will:

1. Provide harmonious International, Federal, State, and local hazardous material regulatory controls;
2. Allow D.O.T.'s regulations to be converted from Detailed Specifications to Performance-Based Criteria;
3. Provide a National Strategy for Control of Hazardous Material risks;
4. Provides a Single, National Reponse system for Incidents and Accidents Involving the Transportation of Hazardous Materials;
5. Provide an Integrated Hazardous Materials Transportation Administrative Communication System among Federal and State Governments;
6. Provide a Comprehensive Data System for the Flow of Hazardous Materials by Quantity, General Hazardous Class, Route, and Mode;
7. Synthesize and Evaluate for its practicality, the State of the Art for Hazardous Materials Transportation Cost, Benefit-Risk Analysis Methodology;
8. Permit Clarification of the Legal Responsibilities of Governmental and Private Agencies involved in Hazardous Materials transportation; and
9. Increase Public Awareness about the Relative Safety of Hazardous Materials Transportation.

The impending transportation of nuclear materials will require the same, if not more, diligent use of Tracrep system.

With the Academy's report estimating an increase of Hazardous Material, and the change in classification to hazardous waste, from 250,000 to 500,000 shipments per day, it becomes more imperative that Tracrep become fully operational immediately and be available to all originators, transporters and receivers. The low cost to these users will assure access to the system for both the small and large users; thus bringing the small originator under a protective unbrella that he may not have been able to afford previously.

Tracrep has been tested—with indisputable positive results—and is ready to be put into operation—and at a dollar saving of more than 50 percent over current costs!

Through its computerized high-tech electronic tracking, reporting and storage capability, Tracrep can—

A. Replace the current archaic paperwork requirements wherein industry must make out state-by-state manifests for each shipment, as well as annual reports, all of which cost millions of dollars and space in terms of burgeoning files. The new computer system when accepted and approved by federal and state authorities as a bona fide reporting agent, relieves the companies of this burdensome, expensive task.

B. Eliminate the current risk and possible penalties now experienced by companies originating and transporting hazardous waste shipments for failure to report accidents and/or other required information as required by law, since Tracrep automatically makes these reports to all proper government agencies.

C. Provide via proprietary electronic communications facilities to police and fire departments, to emergency response teams and to federal and state disaster offices concerned with an accident—of which there are thousands annually—instant, authoritative information on material identification, handling and safety recommendations, treatment/storage/disposal requirements, nearest temporary storage sites, facts on point of origin/destination and other information necessary to decision-making.

At the same time, notify all other appropriate federal, state and local officials . . . By providing such information speedily to public protection agencies with a-need-to-know, industry gains the appreciation and utmost cooperation from such agencies in helping the latter to fulfill their responsibilities. This fast reaction would help immeasurably to counteract the claims of indifference to public and community welfare, attributed in the past to manufacturers, shippers and transporters by some city and state officials, following tragic accidents. Following one such accident last year, Ohio's State Fire Marshal Ryan noted, "After an accident, time is the key factor. The material involved must be quickly indentified—the difference can be a controlled situation or a catastrophe". Access to the Tracrep system will be given gratis to those state and federal agencies on a need-to-know basis, saving millions of taxpayers dollar. They then will have no need to purchase or load computers, man the computers or establish storage space. This humanitarian gesture allows these agencies an instantaneous ability to get full information, round-the-clock, every day, and meet fully those requirements as established by law.

The Tracrep system fully meets the manifesting, tracking and reporting requirements mandated by the Resource Conservation Recovery Act and other laws. Tracrep becomes, for its subscribers, the point of origin for all manifests prepared for them while interfacing this information with appropriate federal and state reporting agencies. Through electronic means, subscribers may contact the Tracrep Center 24 hours a day; it provides full assistance and information in preparing the manifests.

The center stores a master copy of all manifests in its computer files for intransit tracking and other needs. Access is also available to all federal, state and local authorities, including emergency organizations. In addition to the center's ability to handle information quickly in emergency situations, government agencies need only to query the center's computer files to examine reports, a tremendous saving in time, dollars and storage space.

While Tracrep is a private sector endeavor, it will have a close continuing relationship, through signed memoranda of understanding, with the U.S. Department of Transportation, U.S. Environmental Protection Agency, U.S. Coast Guard and all relevant state agencies.

In conclusion, it is hoped that through the successful implementation of Tracrep, a contingency fund will be established to aid in compensating victims of hazardous materials mishaps, under guidelines set down by such groups as the Superfund section 301(e) Study Group.

Thank you Mr. Chairman.

Mr. SKELTON. Thank you, sir.

Mr. Hiler.

Mr. HILER. I have no questions, Mr. Chairman.

Mr. SKELTON. Mr. Torres.

Mr. TORRES. No questions, Mr. Chairman.

Mr. SKELTON. Mr. Mulholland, thank you so much. Thank you for keeping it brief. We do appreciate it.

Due to the time constraints, we were not able to hear from the representatives of the Automotive Parts and Accessories Association, the Society of Independent Gasoline Marketers of America,

and the Independent Lubricant Manufacturers Association. At this time, without objection, I would like to place their written statements into the record.

We also have statements from the Neighborhood Cleaners Associations, and SCA Services, Inc. which we will also insert into the record at this point.

[The prepared statements referred to above follow:]

PREPARED STATEMENT OF THE AUTOMOTIVE PARTS AND ACCESSORIES ASSOCIATION

The Automotive Parts and Accessories Association [APAA] submits for the hearing record the following views on section 3 of H.R. 2867, amendments to the Resource Conservation and Recovery Act directed at regulating small quantity generators.

At the outset, I would like to commend you and members of this small business subcommittee for taking the time to address this very important issue. We hope the hearings you plan will help inform Congress that the small generators provision of H.R. 2867 could have severe economic effects on many small businesses in this country.

APAA is a concerned party in this matter in that we are a trade association representing over 1,400 manufacturers, wholesalers and retailers of automotive parts and accessories, many of them small. As you most likely know, production of automobile parts and servicing of motor vehicles requires the use of materials some of which are, and others of which may someday be, considered by the Environmental Protection Agency [EPA] to be hazardous to human health.

Currently, companies which generate under 1,000 kg per month of hazardous materials are exempted from regulations promulgated by EPA. This exemption was granted because EPA realized the strain which these regulations would place on small businesses. However, there is a perception that this exemption is allowing a dangerous waste to slip through the regulatory process, thus posing a threat to human health. There is a wide variety of estimates on how much of the total hazardous waste is accounted for by these small generators. EPA estimates only one percent; other groups estimate it slightly higher.

Whether one percent or a modicum more, APAA fully realizes the dangers involved in handling, transporting, and disposing of hazardous wastes.

APAA also is aware that retaining the 1,000 kg exemption may not be desirable from the public's viewpoint.

APAA would like to remind Congress, however, that development of sound public policy should require examining an issue from all sides and weighing the costs and benefits of a proposal before making it law.

In the small generator situation, we believe, and the EPA agrees, there is inadequate information on which to base regulations. Answers first must be obtained to such questions as how much waste would be regulated, what is the economic hazard to small business, what are the costs of enforcement, and what is the extent of public benefit to be derived. Then, and only then, can regulations be written that are strong enough to protect human health yet balanced enough to preserve the viability of small enterprises.

Lawmaking minus this vital input is tantamount to developing public policy in a vacuum. It would be unfortunate to see the waste generator issue generate another waste—that of small businesses crippled by unnecessary and excessively costly government regulations.

Recognizing the need for more data, the EPA has initiated a study which includes a comprehensive survey to discover how large the problem is and what can be done about it. We commend the EPA for this approach and support efforts to hold in abeyance small generator regulations until this information has been gathered and analyzed.

It does not appear that the House Energy and Commerce Committee shares the same concern for small businesses that we have. H.R. 2867, passed by the committee recently, forces EPA to have regulations in place within 2 years, even though EPA has stated that 2 years are not sufficient time to complete its current study.

According to the committee bill, if EPA does not promulgate the regulations in the permitted time, then small generators will become subject to the same regulations as large generators. We consider this "hammer provision" arbitrary and insensitive to small business.

The committee bill further places, in the interim, a requirement that generators use the EPA Uniform Hazardous Waste Manifest form and requires all waste to be brought to a Subtitle C treatment facility.

APAA must oppose the committee's approach. Requiring a small business to deliver his waste to a "permitted" facility only and to prepare all the paperwork may be neither wise nor economic. There is reason to believe that many small generators are unaware of the nature of the matter they generate. Congress should be concerned that a small business faced with the decision of whether to pay the high cost of complying with what may be overly strict regulations or dump the waste illegally, may choose the latter. This would be less a case of dishonesty than one of ignorance coupled with the pressures of survival.

APAA urges Congress to consider the problems of small business in developing this legislation. We recommend that EPA be permitted to complete its study and develop regulations from a base of knowledge rather than whim. If interim regulations are necessary, then we recommend that they be simple and easy for small business owners to understand and comply. Provisions also should be made to educate small businesses about the regulations once they are developed.

Thank you for this opportunity to express our views on this important issue. We would be happy to answer any questions the subcommittee may have regarding our position.

PREPARED STATEMENT OF THE SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA

The Society of Independent Gasoline Marketers of America [SIGMA] submits the following comments on H.R. 2867, the "Hazardous Waste Control and Enforcement Act of 1983." SIGMA's remarks are limited to the "small-quantity generator" provisions contained in section 3 of the bill. Section 3 of H.R. 2867, as reported by the House Energy and Commerce Committee, would force a burdensome and costly regulatory scheme on gasoline marketers and needs to be amended. SIGMA, therefore, urges members of the Subcommittee to support alternative, workable small-quantity generator provisions to be offered during consideration of H.R. 2867 on the House floor by Representatives David C. Shelby (D-Ala.) and Norman F. Lent (R-N.Y.). The "Shelby-Lent amendment" has the support of environmental and business groups, including SIGMA.

SIGMA is a national trade association representing approximately 250 independent marketers and private-brand chain retailers of motor fuel. SIGMA's members market motor gasoline in 49 states, and their sales represent approximately 15 percent of the gasoline sold at the retail level. SIGMA members supply gasoline to more than 19,000 retail gasoline outlets. According to a recent membership survey, the average SIGMA member owns and operates 48 retail gasoline outlets.

Section 3 of H.R. 2867 would mandate that EPA must regulate all businesses that generate between 100 kilograms kg. and 1,000 kg. of hazardous waste per month within 18 months after the bill's enactment. Most gasoline marketers currently enjoy an exemption from the Environmental Protection Agency's EPA complex Resource Conservation and Recovery Act RCRA rules because they produce below 1,000 kg. of hazardous waste per month. However, if EPA fails to meet this statutory deadline and small-quantity generator standards are not in place within 24 months of the bill's enactment, any business generating between 100 kg. and 1,000 kg. would be subject to all existing RCRA rules which were designed for large-quantity generators (over 1,000 kg. per month). Given EPA's record in meeting congressional deadlines, there is a very clear possibility that gasoline marketers would face the full force of EPA's RCRA regulations. Such a result is impractical, particularly when the intent of section 3 of H.R. 2867 is to create a two-tiered standard for the management of hazardous wastes.

The Shelby-Lent amendment would remove this regulatory "hammer" from H.R. 2867. Under this alternative, if EPA's small-quantity generator standards are not in place within 30 months after the bill's enactment (EPA still would be required to regulate small-quantity generators within 18 months), then small-quantity generators would be required to meet several additional notice requirements. SIGMA supports this change because it is not proper for Congress to hold small businesses responsible for EPA's failure to meet statutory deadlines.

SIGMA also is concerned with the provision in section 3 of H.R. 2867 that requires any business that generates between 25 kg. and 100 kg. of hazardous waste per month to provide a manifest each time such waste is shipped offsite. This provision, which would become effective within 90 days of the bill's enactment, sets dif-

ferent compliance levels for notice (25 kg./month) and the remainder of the small-quantity generator regulations (100 kg./month). This dual system is burdensome and unmanageable for gasoline marketers. For example, a retail gasoline outlet may generate between 25 kg. and 100 kg. of hazardous waste in a particular month, while exceeding the 100 kg. threshold in another month. The outlet's operator would be subject to different requirements in each of those months. The burden this dual system would create is compounded when one considers that the average SIGMA member owns and operates 48 outlets. The possibilities of inadvertent mistakes, enforcement difficulties, and excessive costs to the gasoline marketer are large. Further, the 180-day storage provision will not help most gasoline marketers because they cannot realistically keep hazardous wastes on-site that long.

Accordingly, SIGMA urges members of the subcommittee to support the changes made to this notice provision in H.R. 2867 by the Shelby-Lent amendment. This legislative alternative provides for a transport notice from the small-quantity generator to the hauler of any hazardous waste generated in quantities greater than 100 kg. per month. This notice requirement would take effect within 180 days after the bill's enactment, rather than 90 days. This provision would alleviate the problems which would face gasoline marketers if section 3 of H.R. 2867 is enacted as reported.

SIGMA also urges members of the subcommittee to support the Shelby-Lent amendment because this alternative contains an education provision not found in the current version of H.R. 2867. According to a recent U.S. Chamber of Commerce survey of small businesses believed to generate small quantities of hazardous waste located in states which have hazardous waste regulations stricter than current EPA rules, there is an overall lack of understanding by small businesses of their hazardous waste management responsibilities. The Shelby-Lent amendment would require EPA to develop and implement a program to educate these small-quantity waste generators. Such an education program would help assure compliance by small-quantity generators with RCRA and would avoid frivolous enforcement.

Major environmental groups and business organizations, such as SIGMA, agree that the Shelby-Lent amendment protects the environment by providing a proper regulatory program to capture the hazardous waste produced by small businesses, including gasoline marketers. This amendment eliminates the confusion which will be created by section 3 of H.R. 2867 and would help to educate small businesses of their hazardous waste management responsibilities. Accordingly, SIGMA urges members of the Subcommittee to support the Shelby-Lent amendment when it is offered on the House floor.

SIGMA appreciates this opportunity to offer its comments.

Prepared Statement of the Independent Lubricant Manufacturers Association

The Independent Lubricant Manufacturers Association [ILMA] submits the following comments on H.R. 2867, the "Hazardous Waste Control and Enforcement Act of 1983." ILMA's remarks are limited to the "small-quantity generators" provisions in section 3 of H.R. 2867, as reported by the House Energy and Commerce Committee.

ILMA is a nonprofit trade association composed of more than 130 small, independent companies which blend, compound, and sell finished lubricating fluids. Independent lubricant manufacturers are neither owned nor controlled by firms that produce virgin lubricant base stocks from the refining of crude oil.

ILMA members are extremely efficient manufacturers of high-quality motor oils, transmission fluids, industrial oils, greases, and other lubricants to meet the consumer's needs. Most independent lubricant manufacturers purchase lubricant base stocks (either virgin base stocks produced from crude oil or re-refined or synthetic base stocks) and chemical additives. Lubricants then are produced by blending differing percentages and types of lubricant base stocks with various additives. These additives are necessary to improve the performance characteristics of the lubricants. The proper selection of lubricant base stocks and additives depends upon the requirements of the equipment for which the lubricant is produced. Finished lubricants serve many purposes, including maintaining engine cleanliness, improving "load" carrying capacity, reducing friction, preventing wear, and reducing maintenance.

Independent lubricant manufacturers compete with one another, as well as with refiners and re-refiners, in the sale of finished lubricant products. Industry surveys indicate that independent lubricant manufacturers, the interests of which ILMA represents, account for approximately 20 percent of all the lubricants and greases

sold in the United States. ILMA has testified previously before this Subcommittee on matters of interest to the lubricants industry.

As reported by the House Energy and Commerce Committee, section 3 of H.R. 2867 would mandate a burdensome and costly regulatory scheme on small businesses, including independent lubricant manufacturers. ILMA agrees with environmental and other business groups that section 3 of H.R. 2867 needs to be amended and urges members of the subcommittee to support the alternative, small-quantity generator provisions to be offered on the House floor during consideration of H.R. 2867 by Representatives David C. Shelby (D-Ala.) and Norman F. Lent (R-N.Y.).

Many ILMA members currently are exempt from the Environmental Protection Agency's [EPA] Resource Conservation and Recovery Act [RCRA] regulations because they generate less than 1,000 kilograms [kg.] of hazardous waste per month. Most independent lubricant manufacturers' hazardous waste are beneficially recycled. However, under section 3 of H.R. 2867, EPA must regulate all business producing between 100 kg. and 1,000 kg. of hazardous waste per month within 18 months of the bill's enactment. If EPA fails to meet this statutory deadline and the small-quantity generator regulations are not in place within 24 months of the bill's enactment, all existing RCRA regulations—designed for large-quantity generators (over 1,000 kg. per month)—would apply to any business producing over the 100 kg. of hazardous waste per month threshold. Given EPA's record in meeting Congressional deadlines, it is likely that independent lubricant manufacturers will have to comply with the same RCRA rules issued for large-quantity generators.

Small businesses that are small-quantity generators should not be held responsible for EPA's failure to meet a statutory deadline. Accordingly, ILMA supports the "Shelby-Lent Amendment," which eliminates this regulatory "hammer" from H.R. 2867. Under this legislative alternative, EPA still would be required to regulate small-quantity generators within 18 months of the bill's enactment. However, instead of being subject to existing RCRA rules for large-quantity generators, small-quantity generators would be required only to meet additional notice requirements if EPA's small-quantity generator standards are not in place within 30 months after the bill's enactment.

ILMA members also are concerned with the notice requirement in section 3 of H.R. 2867 that mandates, within 90 days after the bill's enactment, that any business that generates between 25 kg. and 100 kg. of hazardous waste per month must furnish a manifest to a hauler each time such waste is shipped off-site. Thus, H.R. 2867 would impose a notice requirement at one level (25 kg.) and would subject hazardous wastes to further regulation at another level (100 kg.). This dual system would be burdensome for independent lubricant manufacturers, particularly those with more than one manufacturing facility and those that might generate less than 100 kg. of hazardous waste in one month and more than 100 kg. in another month. The provision that would allow an ILMA member to store its hazardous wastes up to 180 days without a RCRA permit would not eliminate this problem.

The Shelby-Lent amendment would alleviate this burden by establishing the notice level at 100 kg. of hazardous waste per month. Moreover, this legislative alternative in no way would limit EPA's ability to regulate generators of hazardous waste below the 100 kg. per month benchmark if necessary to protect human health or the environment.

ILMA also would like to call the Subcommittee's attention to the education requirement in the Shelby-Lent amendment. Unlike section 3 of H.R. 2867, the Shelby-Lent amendment would require EPA to develop and implement a national program to educate small-quantity generators of their regulatory responsibilities. Given the varying state hazardous waste rules for small-quantity generators and the possibilities of frivolous enforcement, such a national education program would help to assure compliance by small-quantity generators with RCRA.

ILMA agrees with environmental groups and other business organizations that the Shelby-Lent amendment woud create a workable and proper regulatory program to capture hazardous wastes without overly burdening small businesses. This legislative alternative would eliminate the confusion and costs section 3 of H.R. 2867 would create and impose. ILMA, therefore, urges members of the subcommittee to support the environmentalist/business alternative as reflected in the Shelby-Lent amendment.

ILMA appreciates this opportunity to present its views.

PREPARED STATEMENT OF THE NEIGHBORHOOD CLEANERS ASSOCIATIONS

Thank you for your invitation to testify before your Subcommittee on H.R. 2867 but I will be unable to be there. I am submitting below our views on this legislation which we ask you to consider.

The reduction in the definition of a small generator in H.R. 2867 from 1,000 kgs. a month of 100 kgs. a month will cover practically all drycleaners most of whom were previously exempted. It will cost the average drycleaners an estimated $4,300 to $7,300 annually to transport their contaminated inert wastes to an approved sanitary landfill. High temperature incineration would cost a drycleaner $13,200 annually. $4,200 is the annual profit for a drycleaner whose volume is $140,000. It's hardly cost effective.

Newly developed technology can reduce the percentage of hazardous waste in the mostly inert sludge to between 1 percent to 2 percent.

Our information is that small generators are responsible for only 0.8 percent of all hazardous waste. To impose the same standards on small generators as on the large generators makes no sense, especially since there is no scientific evidence to support the regulations.

You asked us to compare the new proposed, stricter federal requirements with states who have strict regulations. Our association has members in nine states. Our fraternal drycleaner organizations have drycleaner membership in many other states. We and they have met with officials in our respective states who assure us that their intention is not to push out of business those drycleaners who are making a reasonable effort to comply with established standards.

Our association and other associations and our members share the objectives of the legislation. However, some of the provision of the bill will have the effect of forcing out of business a large number of drycleaners. Since there is no scientific evidence to support these harsh provisions, we oppose them as economically unjustifiable.

PREPARED STATEMENT OF SCA SERVICES, INC.

I am submitting this statement on behalf of SCA Services, Inc., for inclusion in the hearing record on H.R. 2867, the "Hazardous Waste Control and Enforcement Act of 1983."

SCA Services, Inc. is one of the largest companies engaged in solid waste collection and disposal and chemical waste collection, treatment, recovery and disposal. SCA's Solid Waste Group services commercial, industrial and residential customers throughout the United States. In the emerging area of high technology chemical waste services, SCA's Chemical Waste Division has assumed the industry leadership position in the recovery, detoxification, and incineration of chemical wastes.

SCA now operates six permitted and regulated chemical waste treatment and disposal facilities, including a new, commercial high-temperature chemical waste incinerator in Chicago that is the largest in the United States and is designed using American technology, built with American parts. SCA has proposed two new treatment facilities while expanding its existing facilities.

Analytical laboratories are located at each SCA facility and are supported by a fully-equipped research and development laboratory in Buffalo, New York, which not only conducts the analysis necessary to development specific treatment processes for each waste stream but also performs related consulting services.

SCA endorses H.R. 2867, the "Hazardous Waste Control and Enforcement Act of 1983," particularly Section 3 that requires EPA to regulate small quantity generators of hazardous wastes.

As a major collector of solid waste, SCA is concerned that small, unknown quantities of hazardous wastes pose significant long-term environmental threats as well as safety risks to our employees. For example, an SCA truck transfer facility exploded, sending twelve people to a hospital and equipment was damaged, because of the disposal of exempt amounts of hazardous wastes from a high school in New Jersey. SCA's policy is that its solid waste services are not to accept any hazardous wastes, in any quantity. Unfortunately, the small generator exemption gives the generator legitimacy to dump one ton a month of hazardous wastes without the garbage truck driver knowing what has been placed in the waste disposal bin. SCA also is concerned as an owner and operator of sanitary landfills that unknowing acceptance of small quantities of hazardous wastes may make SCA liable for potential releases of such wastes.

Compliance with notification, manifests, and transportation standards as proposed in H.R. 2867 should not impose undue economic costs on the small quantity generator.

Reasonably priced treatment alternatives exist for the small quantity generator. In New England, SCA has established a "milk run", small quantity generator collection service in the New England area. The range of costs for this service, which includes transportation, treatment, and disposal in Subtitle C facilities, is $60–$90 per 55 gallon drum. A small quantity generator pays $240–$360 a month, generating one ton (4 drums).

SCA also has recently acquired TRI, a company that collects less than truckload, small quantity generator wastes, particularly lab packs, and consolidates the wastes for transportation to hazardous waste treatment facilities. With the acquisition of TRI, SCA now provides less than truckload, small quantity generator transportation, treatment and disposal service from the Eastern Seaboard to as far west as Colorado.

Let us illustrate our point that economically reasonable treatment services can be provided for small quantity generators, with the dry cleaning industry. According to recent Senate testimony of the Laundry Cleaning Council, the average dry cleaning store generates approximately 125 kg per month of hazardous waste. This is the equivalent of 275 lbs. (27.5 gallons) a month, or 3,300 pounds per year.

SCA conservatively estimates that the cost of transportation and treatment of dry cleaning wastes at its Chicago incinerator is $0.30/pound ($3/gallon); approximately half this cost is transportation-related. Thus, the monthly cost for the average dry cleaning plant to have its wastes collected and incinerated would be $72.50, or $990 per year.

The pricing structure of solid waste collection and disposal for the generator is based on volume, not on weight or content. The generator usually pays a monthly fee based on the volume of the disposal container and the frequency of collection. Wastes from several containers and different generators are collected in the same truck and then transported to the landfill. The landfill operator charges a tipping fee based on weight. The average cost of disposal of refuse in a Subtitle D sanitary landfill is $8 a ton, or $13.20 per year for 3,300 pounds of dry cleaning waste a year. However, the collection company has no idea on how to proportion the weight charge, so he typically charges on the basis of container volume and frequency of collection. Therefore, exempt small quantity generators are not properly paying for the collection and disposal of their hazardous wastes.

When RCRA was created by Congress in 1976, the public believed that the one remaining gap in controlling environmental pollution was being closed. The Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act were beginning to clean up the air we breathe and the water we drink. All that remained was control of land pollution and resulting groundwater contamination. The awareness of past dumping practices that led to Congressional enactment of CERCLA confirms the need for the preventive requirements of RCRA. Now, seven years after RCRA's adoption, we finally have a regulatory program in place which may bring all facilities in compliance with these standards within the next 5–10 years. Nevertheless, we have discovered major flaws in this regulatory program. EPA is not regulating as necessary to protect human health and the environment. If not immediately corrected, these regulatory shortfalls will nullify any environmental gains that have resulted from the beginning steps of the current program. If Congress does not pass the proposed RCRA reauthorization to close several regulatory loopholes, particularly for small quantity generators, we will not achieve the goals set forth in the original legislation. The public will be again confronted with the need for and costs of corrective action and be needlessly exposed to uncontrolled releases of hazardous pollutants.

Mr. SKELTON [continuing]. I realize many have come from a long distance. We do thank you for being with us today. As was stated earlier, this subcommittee has no legislative jurisdiction other than the fact that we wanted facts and information, which we got. To all the witnesses—some of whom have already left—we thank you very much.

Mr. HILER. Thank you.

Mr. SKELTON. The subcommittee stands adjourned.

[Whereupon, at 11:10 a.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

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